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TRANSACTIONS

Maryland State Bar Association

1907

TWELFTH ANNUAL MEETING

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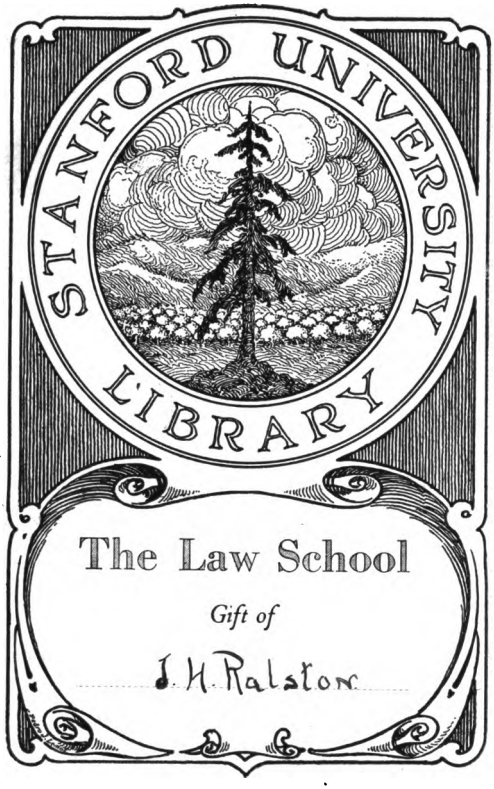

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REPORT

OF THE

TWELFTH ANNUAL MEETING

OF THE

Maryland State Bar Association

HELD AT

OCEAN CITY, MARYLAND

July 3rd-5th, 1907

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PROCEEDINGS

OF THE

TWELFTH ANNUAL MEETING

OF THE

Maryland State Bar Association

HELD AT

OCEAN CITY, MARYLAND

July 3rd-5th, 1907

The Association was called to order at the Atlantic Hotel, Ocean City, Maryland, July 3rd, 1907, at 11 o'clock A. M., President Conway W. Sams in the chair.

The President: Members of the State Bar Association, ladies and gentlemen: It gives me great pleasure to call to order the Twelfth Annual Meeting of the Maryland State Bar Association. The first thing in order is the address of the President, which I will now read.

PRESIDENT'S ANNUAL ADDRESS.

THE LAW AND ITS ENFORCEMENT.

By Conway W. Sams, of the Baltimore Bar.

The honor of being President of the Maryland State Bar Association is indeed great, but the pleasure is somewhat marred by the knowledge that there must be an address

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delivered by the president at the annual meeting succeeding his election, and I sometimes feel as if I have written like a certain deputy marshal in Alabama acted, who did not let any such trifles as technicalities stop him. This story is told of one of his achievements. When the term of court was about to begin, a man out on bail, was reported to be enjoying himself over in Georgia. Deputy Jim went after him. The next day he telegraphed the Judge:

"I have persuaded him to come."

A few days later he rode into town on a mule, leading his prisoner tied up snugly with a clothesline. The prisoner looked as if he had seen hard service.

"Why, Jim!" exclaimed the Judge. "You didn't make him walk all the way from Georgia, did you?"

"No, sir," replied Jim.

"I thought not," said the Judge.

"No," responded Jim. "Part of the way I drug and when we come to the Tallapoosa River he swum."

I have yearned more than once for Deputy Jim's directness in getting over difficulties.

In discussing the subject of this address, two ideas are presented: The first is over-production by the legislative mill, and the second is the almost overwhelming increase in the number of the printed court reports, and then follows a comparison between the English court procedure in criminal cases particularly, and our procedure, with a suggested amendment of the law to avoid the numerous new trials granted for technical reasons.

Without society, as we understand it, there would be no need for law, except that of might; without law there could be no society. A breach of the law is nothing more or less than the doing of an act declared to be hurtful to the welfare of the people, or is the omission to do that which has been decreed shall be done. Ordained a reasonable being, with the desire to accomplish and realize those things which his teaching has led him to believe are to his advantage, man is ever seeking self-aggrandizement, either in the form of

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honors or of wealth, and, since neither honors nor wealth come easily he finds himself opposed by others equally as ambitious, and in this opposition and strife to excel, he too often passes the line of demarkation between right and wrong. The end of law is primarily to restrain, the punishment inflicted being not for the purpose of revenge but for example to deter others from committing a like offense. The wrongful acts the social order suffers are largely due to unnatural economic, political or industrial conditions. As a result, law and order are in continuous conflict with lawlessness and crime. Immense budgets are annually expended for the repression and regulation of the criminal classes. Measured by the standard of value the world over —in dollars and cents—the security which we enjoy, costs each honest, law-abiding person in the United States from three to five dollars a year. The State and Federal governments expend annually more than $2,000,000 in order that the dishonest and unruly, the criminal and the vicious may not prey upon the people; jails, reformatories, penitentiaries and similar institutions represent a dead capital of over $500,000,000. This does not include the cost of education and the expenditures of religious bodies, great preventatives of crime, and, notwithstanding the millions spent in education, and in disseminating the principles of morality and religion, the expense of protection from the criminal classes is increasing, and has increased, until today the charge for the prevention of crime, even to the degree to which it is suppressed, exceeds the bill for the entire military and naval establishment of the nation. Hardly less credible may be the assertion, but it is indisputable, and statistics show there is an increase each year in the proportion of criminals to the population, and an accompanying increase in the cost of the suppression and punishment of crime. Our modern civilization should not produce such results.

The prevention of crime is not alone a matter of the enforcement of the law, but is closely connected with legislation, and since crime cannot be entirely suppressed, such

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laws should be made and enforced as will reduce it to the lowest possible limit. Every possible safeguard has been thrown around the accused, even to the point of permitting him to hide the truth, so that, as has been aptly said:

"We have long since passed that period when it is possible to punish an innocent man. We are now struggling with the problem whether it is any longer possible to punish the guilty."

Throughout all of our land, the jails and penitentiaries, the workhouses and reformatories, are filled with delinquents who are there because our laws are not rigidly and impartially enforced. They are there having done illegal acts, because seeing crimes more flagrant in character and of greater magnitude committed by others who are either not punished, or, if taken into custody, are released through technicalities or the refinements of the law. They risk crime believing that they too will be as successful in evading the penalties of the law as have others, whom they see permitted to remain in unmolested possession of the spoils of their misdeeds.

The absurd proposition, jokingly made it is hoped, that the "unwritten law" be codified, and even let a few more judges commend a jury for following it, will bring dire results. Where one man invokes that misnomer for law, succeeds in getting off, as sure as night follows the day, he will have an imitator committing a crime with less excuse perhaps than the originator had for applying the "unwritten law" to protect him in his own lawlessness.

It must be admitted that the resourceful man, the man of energy and of action, whatever his station in life, usually succeeds; but we do not concede that because a man has means, ill-gotten or otherwise, he should be permitted to thwart justice and escape the penalty of his crime by means of legal technicalities raised in his behalf. A technicality should never be permitted to prevent exact and speedy

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justice. Frauds upon justice and deception upon the courts usually take the form of a technicality built upon some deception. Trickery, of any kind, in the trial of a case is a greater crime than if practiced in any other avocation, for it shakes the temple of justice to its foundation, brings odium upon those to whom the administration of the law is entrusted, and creates distrust in the minds of the people.

The preservation of the integrity of the law is delegated to three classes of public servants, the legislator, the lawyer and the judge, and to them we look for the maintenance of law and order and an effective method for the suppression of lawlessness and crime. Not the least in importance is the lawyer, and the bar of justice becomes at once a misnomer and a farce when the lawyer overlooks the highest ideals of which he is capable, and clouds his action by personal interest or private ambition. Too often he forgets that courts are constituted for the purpose of dispensing justice, and that it is his duty as an officer of the court to render all possible assistance to that end. To many lawyers, the first and only duty is to the client, regardless of his guilt, and every effort is put forth to avoid the penalty justly deserved, and this is presumably upon the theory that the lawyer's record for acquittals is of greater importance than the welfare of society and the respect of the people for the law. The proudest heritage which a lawyer can leave to posterity is, not that he saved many guilty men from the gallows, thereby cheating justice, but that he was successful in his efforts to have every man receive his just deserts, that and nothing more.

The most serious obstacle to the proper enforcement of the law with which the people, the lawyer and the courts have to contend is the enormous output of laws by the legislature, and the ponderous number and increasing publications of the decisions of the courts, decisions, under our system and the principle of *stare decises,* are as much the law of the land as the enactments of the legislatures. Hundreds of volumes containing laws upon every conceiv-

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able subject have been published, and thousands of reports have been printed giving the decisions of the courts interpreting enactments of the legislature, until it is impossible for any judge or lawyer to read, much less to understand, digest and apply them. How often we find in the course of a trial authority upon authority cited on both sides of a case. It is not a very industrious lawyer who cannot find a case in point on any side he may be. To determine the contested point, it is necessary to search the books and differentiate the decisions, either actually or by inference. In such a research there will be found decision after decision supporting the same underlying principle, each court employing its own language in stating the same general conclusion. I submit that the time will come, and it is now at hand, when the court in citing a precedent will simply refer to it, instead of repeating the language employed in the case to which reference is made and immediately restating the reasoning and conclusion in its own words. It is safe to assert that in the reports already published, there are thousands of pages of printed matter which might equally as well be represented by the same number of lines. Let it be understood that we would not have a principle remain obscure because of an insufficient exposition of the reasons for it, but when a principle has once been established and the reasoning upon which it is based stated cogently, logically and fully, let it be held to have become established for all time to come, and refer to it as a precedent, instead of reiterating it and attempting to uphold it by additional and unnecessary reasoning. A well-grounded principle needs no support other than its own foundation.

This output of the legislature and courts has so obscured the great underlying legal principles as to make the enforcement of the law a matter of great difficulty and a most expensive undertaking on the part of an aggrieved individual. Law, not confusion, should be the controlling spirit. and justice, not injustice, should be the very soul and substance of our jurisprudence. No matter how plain a case

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may be brought before the court for adjudication the multitude of laws and decisions may be made to produce results tending to minimize the wrong done, and often the one damaged suffers further inconvenience and expense because he has asked that the matter be decided by a judicial tribunal. While this is perfectly true, still we must not forget and can console ourselves with the thought that if all writings upon political matters, all speeches upon governmental problems and all public documents were to disappear from off the face of the earth, a plan of constitutional government could be formed from the reported cases in the courts of last resort. While we would not have it go into the record that we favored quite so stringent a penalty, it might be suggested that the law of an ancient people, which provided that if any man proposed an act in their assembly which was not enacted into a statute he was to be put to death, be engrafted into the laws of the State of Maryland. This provision could be put into force in this State with lasting benefit in so far as the enactment of the law is concerned, though it might work great hardship, in some instances, because of the loss after each session of the General Assembly of a goodly number of citizens of real value and high standing. There are a thousand laws upon our statute books today, representing unbridled local and special legislation, that could be repealed with no resulting damages. If the same treatment given the Sibylline books could be applied to many of our volumes of acts of assembly, we would have less ground for complaint than did Tarquin the Proud. There is no pressing demand for the enactment of new laws, except in a clearly defined case, and to provide a needed reform. The demand for new laws represents a hysterical clamor for a victory of some kind over some ethereal opponent which often is merely a creature of the imagination. This is not altogether a new condition, for Montaigne tells us about the year 1533:

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"I am further of the opinion that it would be better for us to have no laws at all than to have them in so prodigious number as we have."

Much of the legislation enacted, measured by the old and tried principles of the common law, must be denominated "freak legislation," and represents simply the shallow desire of some momentary statesman to do something startling, and thus bring himself for the hour into the limelight, and call forth from those who do not understand loud shouting and acclaim at the mention of his name. Freak legislators are soon forgotten, but the laws which they have placed upon the statute books are not always repealed. The law, like an orchard, should be trimmed and pruned continuously and intelligently to the end that all which is found to be barren and unfruitful, whether from having outlived its usefulness or because of the changed conditions, may be eliminated and not remain to the confusion of the law and the confounding of those whose duty it is to apply and enforce it. The law, like the orchard, may be wisely cultivated or permitted to run wild; whether cultivated or neglected it *does* bring forth. If not planted wisely then weeds spring up and bring forth after their kind.

There are annually produced by the legislative bodies of the several States of the Union in round numbers, 15,000 laws, of which a great majority are of strictly private nature or of special application. In many instances they are laws enacted for the purpose of taking a particular case out from under the operation of a general statute, thus being class legislation. There is too much tendency to legislate for the individual, and this in most instances directed toward the convenience or benefit of some person who is unwilling to take that which is allowed under the general law, and who has no difficulty in securing the introduction of a measure for his benefit by a member of the legislative body which must pass upon it. A certain fact may be proved, and the law applicable may be clear, yet the judge must, in applying

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the law to the fact, be careful to determine whether or not the parties concerned have been exempted from the provisions of the general law by the enactment of some special act.

We seek for a remedy for this condition. Until our lawmakers direct their duties with the judicial spirit, the legislative blunderbus will continue to be loaded with all of the legal scraps obtainable, with the expectation and hope that the explosion will bring somebody or something down. Probably an effective method to limit the legislative output to the actual and needed legislation would be to adopt a plan something on this order: That every bill introduced be referred to a commission of experts, who are held responsible for the verbal form of the bill, and whose duty it is to ascertain and state its relation to existing legislation. Under our form of government, a commission or assistants to the attorney-general would probably answer the purpose, or the State's attorneys could be called upon to meet with the attorney-general during the session of the general assembly. Every one who has had any experience in legislation knows the confusion, the disorder and the absolute perplexity which surround the dying hours of a legislative session, and a clear understanding of what is going on, is out of the question, and is aware how impossible it is to carefully scrutinize all bills. Logs roll, pipes are laid, wires pulled and snakes will wriggle through. The personnel of each legislature changes so frequently that there are few experienced members returned, and fewer who study the bills proposed in relation to the existing statutes. It is evident that a close scrutiny by some committee or commission, learned in the law, given the time to consider and authority to act, would demonstrate that a very great proportion of the bills introduced into the legislature are either entirely superfluous or actually repugnant to existing law, and that they are often proposed because of the ignorance of their authors of both the results which would be obtained by their passage and of the law as it stands at the time.

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We purposely pass by without discussion, for fear of being accused of lese majeste, the question whether or not a like supervision over the decisions of the courts of last resort would or would not be something greatly to be desired. We submit, however, that it may come to be the subject of much sincere thought upon the part of future generations of lawyers. Even though we sometimes look upon the learning of the judge before whom we have had hard luck in trying a case as far from being what it should be, in view of the decision rendered for the other party, yet in our sober moments, when the spirit of battle is no longer upon us, we come to think of him with a good-natured, tolerant spirit, considering our splendid brief that had so little effect. But who can find fault with a calm, clear and dispassionate criticism of a decision of the court? I know full well, that lawyers often act like soldiers, taking a decision as an order to be obeyed without question; but such an attitude neither helps the Bench nor honors the Bar. Be respectful to the Bench, and never permit ourselves to meekly swallow a decision simply because it is the last word, when there is good reason against it, or the decision is itself wrong. A strong and well-poised criticism both assists the Bench and dignifies the Bar.

Under that provision of our constitution, article 15, section 4, which declares that: "In the trial in all criminal cases, the jury shall be the Judges of Law, as well as of fact," the judge is deprived of much power, and the question whether or not he is a part of the tribunal, or if the entire procedure devolves only upon the counsel and the jury, may well be asked. It is not merely a figure of speech to say, that the judge who presides at the trial of a criminal case is not unlike the umpire at a game of baseball, whose duty it is to apply and enforce the rules of the game, the only difference being that in a case at law there are more rules than in the baseball game. At common law the judge always assisted the jury to arrive

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at correct conclusions by summing up evidence, explaining all the facts of the case, pointing out clearly the issues involved, collating and analyzing the principal facts touched upon by testimony, and stating what is and what is not essential, thus making plain what the issues are upon which the case should be decided, the facts and proofs applicable to the issues, and finally the law of the case. When this method is pursued, the jury may be better depended upon to arrive at a more nearly just conclusion than if they be left to their own devices to ascertain the points connected with the case.

The freedom of the judge in trials by jury is not of equal degree in the several States of the Union, for in some they are allowed greater latitude than in others, although in every State their functions as magistrates in criminal cases are more or less restricted, and the judge generally made a mere spokesman of the law. These prohibitions are usually by statute, but there are States in which the constitution places restrictions upon the judge. Some of these constitutional provisions keep separate the determination of the law and the facts, leaving it to the jury to determine all question of fact, and the judge to state the law. This takes from the judge the right to comment upon the evidence or point out to the jury any peculiarity in the testimony of any witness, although testimony given to establish a fact may utterly fail to do so, and yet goes to the jury and is given as great consideration as evidence which is to the point and proves the fact beyond question. The trained mind of the judge will always distinguish evidence which goes to establish a fact. It cannot be expected that the untrained minds of jurymen will. There would be fewer mistrials, fewer appeals based upon technicalities and not upon the right of the case, if the judges were given greater liberty in the matter of directing the course of the trial, thus enabling them to keep the minds of the jurors free from confusion upon the material points connected with the trial. If this right were given, it would seldom be abused, and would

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result in cleaner, more clear cut trials. The record would not be burdened with so much matter that really has no connection with the issues in the case, put in for the purpose of exception or appeal. The judge would be careful that no partiality be shown to one party as against the other without regard to the right of the matter, knowing that watchful and alert counsel would search carefully to find reason for a reversal.

The Supreme Court of the United States has stated definitely what constitutes trial by jury, as well as defined the authority of a judge and what is his latitude as contemplated by the Federal Constitution, when it said: (U. S. *vs.* Reading R. R., 123 U. S. 113.)

"Trial by jury in the courts of the United States is a trial presided over by a judge, with authority not only to rule upon objections to evidence, and to instruct the jury upon the law, but also, when in his judgment, the due administration of justice requires it, to *aid* the jury by explaining and commenting upon the testimony, and even giving them his opinion upon questions of fact, provided only he submits those questions to their determination."

To the conditions which surround and restrict the freedom of action of our judges, with the resultant mistrials and failure of justice in so many criminal cases must be attributed the feeling of contempt and growing distrust of the criminal law and its administration which we see manifested throughout the entire country. If we would secure verdicts which do justice, and thereby inspire confidence, we must give sufficient power to the judges to enable them to conduct a trial in a manner that will bring out the facts and make plain to the jury what verdict the evidence will warrant under the law. No judge within the narrow limits allowed him in a criminal case can possibly do this, and when the jurors retire it is with minds filled with conflicting ideas of the law and the evidence, and often to such extent that they are confused so thoroughly as to be altogether

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incapable to distinguish the right from the wrong, and being unable to unravel the tangle into which they have found themselves, proceed to render a verdict based upon ignorance, prejudice, passion or anything but law and the evidence.

In a recent case, Esterline *vs.* State, decided April 2, 1907, the Court of Appeals used this language:

> While the court has the right to advise the jury in a criminal case, it is not *bound,* and cannot be *required* at the request of counsel or jury to do so. Such instructions as it may give are *merely* advisory, and may be disregarded by the jury.
>
> In Brool *vs.* The State, 45 Md. 356, the appeal was by the accused from the refusal of the court to instruct the jury. The court after quoting the constitutional provision, said that the jury being the judges of the law as well as of fact in criminal cases, would not be bound by any instruction given by the court, but would be at perfect liberty to utterly disregard them, and find a verdict in direct opposition to them.
>
> No court in this State can be *required* by counsel or jury to give instructions either upon the law or the legal effect of the evidence given at the trial. The court may, in its discretion, advise the jury as to the law and legal effect of the evidence, but is not bound to do so, and being a matter entirely within its discretion, its refusal to do so cannot be reviewed by this court.

This is the law of Maryland, and of course we are bound by it until it is changed, but should it not be changed?

The commanding and vigorous figure of the English judge as he is today is by our constitution impossible in criminal trials in this State. No judge in Maryland would have dared to give in any case such a summary of the facts as was presented to an English jury in the charge of Judge Bingham in the celebrated trial of Whittaker Wright, the swindling promoter, for there would have been an inevitable reversal and a new trial.

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A criminal trial is a most solemn proceeding, and one in which every act should be open, fair and positively beyond the thought of suspicion, and every safeguard should be thrown around a person accused of crime, to the end that no injustice be done him, and that he may have full opportunity to demonstrate his innocence without having to overcome prejudice, but in safeguarding the accused, the rights of society should not be forgotten. The law does not demand of a man his life, or punish him without cause or reason. Law was conceived that the life of man might not be held lightly or taken by mere whim or caprice. All of the struggles of mankind have been with the object of making existence more certain, and all science is directed toward prolonging life and making it more secure. Anyone placing himself in a position to be charged with crime should have no right which is denied the State, else the part is greater than the whole. He has no right to ask for favor; he must be satisfied with justice. He has no right to ask his freedom because of some technicality or mistake which in no manner affects the crime or the facts connected with it.

No judge, lawyer or juror can ever justify a failure of justice when it is caused by trickery, falsehood, fraud or any other dishonorable or questionable means. Society demands justice, and that only, in every case.

From the time of that great charter upon which has been builded the superstructure of human liberty and stands as a monument to the bravery, persistence and determination of the Anglo-Saxon race, the courts have asserted that for every wrong there is a remedy, but, nevertheless, the sentiment prevails that the man of means, of wealth and influence, is more apt to have justice done him according to his own conception of what constitutes justice than is the poor man, regardless of the right of the case. Nor can we ridicule the sentiment or cry it down. It is not one which can be laughed into obscurity, it seems, since it has grown from day to day until now it is little less than conviction in the minds of the people.

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This conviction, deep-rooted as it is, is not so much due to the law as an abstract principle, as it is to the manner of enforcing the law. The law itself is made to, and it does, cover in theory all alike. Oliver Goldsmith tells us in the Traveller, about 1755, that "Law grinds the poor, and rich men rule the law." No doubt Goldsmith had lost a law suit about that date. If all be treated in the same manner, and the rich and the poor come to understand and realize that the proof of a certain fact would mean the finding of a certain verdict, uncertainty would vanish. The surest way to reduce the number of cases upon the dockets of the courts is to fearlessly enforce the law. Every man should be made to feel that the words of Sir Edward Coke are as truly expressive of the law today as they were when he spoke them:

"Every subject for injury done to him in bonis, in terris vel persona, by any other subject, be he ecclesiastical or temporal, without any exception, may take his remedy by the course of the law, and have justice and right for the injury done him, freely without sale, fully without denial, and speedily without delay."

Those are eloquent words, and truly expressive of what the law is intended to be, and what it would be if rigidly enforced against all, without fear or favor. It is true, that the remedy for wrongs which the law provides is, in many cases, inaccessible to the poor man, because of the cost to him, both in time and money, and rather than go to the expense of defending himself and asserting his rights, he permits wrongs to go without redress, and clings to the belief that there is no justice for him.

The delay which usually attends the trial of a criminal case, is one of the principal causes of the dissatisfaction with criminal prosecutions.

The bill of rights (Art. 21) guarantees to every accused person "a speedy trial by an impartial jury," but no matter how strenuously the accused may assert his innocence of the

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charge, and his willingness to prove it, it will be noticed that in a very great majority of the cases the accused keeps his case as long as possible from coming to trial. There are many cases which illustrate the methods employed in delaying trials and the execution of the sentence of courts.

The celebrated Maxwell case, in Missouri, furnishes a striking example of delay by reason of every possible technicality being employed. On Easter Sunday in the year 1885, Maxwell administered chloroform to his traveling companion, Preller, in sufficient quantity to cause death. He was followed to New Zealand, extradited and returned to St. Louis where he was tried. The trial was delayed and was not begun until more than a year after the crime had been committed. Maxwell was convicted. Appeal was taken to the Supreme Court of that State and execution was stayed. The Supreme Court affirmed the judgment of the lower court, rendering the decision about one year later. A writ of error was then sued out and the case taken to the United States Supreme Court, in order to determine whether or not an alleged Federal question was involved. After a lengthy argument, the Supreme Court declared that there was no such question involved in the case, and dismissed the writ. The attorney-general asked for a mandate authorizing execution of judgment, but the mandate was refused. A motion for a rehearing was made, and the case went over until the close of the term. Then Maxwell was again sentenced, the mandate of the Supreme Court having been sent down. Great efforts were made to obtain a commutation of sentence or pardon, and it was fully expected that Maxwell would not expiate the crime. The governor of the State declined to interfere, and a respite of four weeks was granted in which to permit the murderer to prepare for execution. Executed four years after arrest.

The murderer Duestrow was hung in Pennsylvania eight years after he shot his wife. Such illustrations could be multiplied almost indefinitely, for example, Patrick was con-

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victed of killing Rice years ago, and the criminal is still alive.

A word of contrast between the American and the English methods in the conduct of criminal trials may not be out of place, and shows a marked difference in the conduct of criminal cases, and leads up to the suggestion with which this paper closes. And yet it is not claimed that injustice is more often done in England than in the United States, while there can be no questioning the fact that society is as adequately protected in England as here.

Two criminal cases, very similar in many features, have been tried during the present year, one in England and one here. In the English case the murder was committed late in the month of January, 1907. George Rayner, in January, 1907, entered the place of business of William Whitely, a very prominent retail merchant of London, and shot him, because Whitely declined to recognize him as a son. On March 22, 1907, Rayner was tried. At the trial the defense was insanity, it being alleged that Rayner killed Whitely in a "brain stress" which had overcome his reasoning faculties. The English judge ruled that Rayner was sane enough to realize that the consequence of firing several bullets into a man would be death, and sane enough to understand that the taking of human life was contrary to law, and the case proceeded. The trial lasted five hours. The jury deliberated nine minutes. The verdict was guilty. Sentence was imposed immediately. Rayner has since been given a life sentence. From the first word in the trial to the last, less than five and one-half hours had passed, during which time the sanity of the accused has been judicially determined.

On June 25, 1906, Harry K. Thaw killed Standford White. On January 21, 1907, seven months later, he was placed on trial. At the trial, insanity was the defense, it being alleged that Thaw shot White during a "brain storm," caused by the thought that White had ruined the girl which Thaw had afterwards married. After nine weeks of trial, the judge in

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the Thaw case stopped the proceedings and appointed three persons to inquire into the sanity of the accused. Thaw was adjuged by them to be sane at the time of the trial. This inquiry delayed the case a number of days. The jury finally disagreeing. The two judges acted strictly in accordance with the law and practice in their own countries. Similar cases could be multiplied.

Which system results in greater safety to life, morals, and society is easily determined. In England, justice is measured out more quickly than it is here, and when the sentence has been rendered, it is imposed with less delay, and crime is punished immediately in almost every instance, while the facts are susceptible of proof, and when the punishment will have an effect upon the people. Here, if it is punished at all, it is usually only after every possible delay, when it will not have any good effect, the public having long since forgotten the facts connected with the crime. In England a murderer is fortunate to be alive six months after the commission of the crime of which he has been proven guilty. There no such privileges are granted, as are almost forced upon criminals in this country. Taking the case of Maxwell, before mentioned, as an example. He would not have been allowed a writ of error or appeal as a matter of right in an English court, a writ of error there being a matter within the discretion of the attorney-general, and issued upon his fiat. The case could not have been reviewed by a higher court, unless the trial judge was satisfied that there was such a doubt concerning some question of law as would make a review by a superior court necessary.

There is a simplicity attached to the proceedings in an English court which cannot be found in ours; and an ability to get to the bottom of the matter which reminds one of the decision of the case of The Populace *vs.* Saint Paul, 18 Acts of the Apostles, 12, tried before Gallio, Pro-Consul of Achaia. There were no written pleadings in that case. The accusers, dragging the Apostle, came into the presence of the

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judge, bawling out: "This fellow persuadeth men to worship God contrary to the law." Saint Paul was about to reply, when Gallio, with a touch of impatience, ruled in the following language:

> If it were a matter of wrong or wicked lewdness, O ye Jews, reason would that I should bear with you, but if it be a question of words and names, and of your law, look ye to it; for I will be no judge of such matters.

In other words, Gallio gave Saint Paul a *nolle prosequi.* In passing it might be said had Gallio wished to be severe, he might then and there have dealt Christianity a lasting blow, for Saint Paul had much of what there was of it stowed in his valiant heart and head.

What does all this lead us to? The average number of homicides in the United States, for twenty years up to 1905, was 6,507 annually, and in the year 1906, 10,662 persons were killed in this country by their fellowmen. There is no pretense of considering any other classes of crimes. In the face of such a record, the bare statement of which is most horrifying, we are obliged to confess that we do not possess an effective system by which criminals are punished, justice meted out speedily and the punishment fits the crime. We are compelled to admit that there is something radically wrong in our criminal laws. It is earnestly submitted that the following suggestion, which is advocated by the Alabama State Bar Association, if enacted into a statute might in a great measure meet the situation:

> "No judgment shall be set aside or new trial granted in any case, civil or criminal, on the ground of misdirection of the jury, or the improper admission or rejection of evidence, or for error as to any matter of pleading or procedure, unless, in the opinion of the court to which the application is made, after an examination of the entire cause, it shall affirmatively appear that the error complained of has resulted in a miscarriage of justice."

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It is for the bar to find the remedy, because we both make the laws and are the officers of the law who assist in its enforcement. The responsibility is ours. Will we meet it?

The President: I have the great pleasure of now introducing to you, a gentleman, who is almost a Marylander, and who is really an Eastern Shoreman, John S. Wise, of New York, who will read to you a paper on "Cenralization by Construction."

John S. Wise: Ladies and gentlemen. It has been a struggle in my mind whether to give you an ex tempore speech or a written one. I have just read this address again, which I have not read before for about three weeks, and as I find it is really better than I thought it was when I first looked it over, I shall use it in my address to you this morning.

It is a very great pleasure, I assure you, to be here today, and it is a compliment which I appreciate very much, not only from a personal, but from a professional standpoint, for the good people of Maryland, by a thousand kindnesses and courtesies, have endeared themselves to me in many ways, and towards them I fell an affection and a community of spirit and a feeling second only to that which I entertain for my beloved old State of Virginia. Your State needs no eulogy in regard to her contributions to the bar of this country. A long anl illustrious line of lawyers have done honor to the State of Maryland.

Among my first recollections are my father's stories of the great leaders of his boyhood in Maryland, such as, Luther Martin, William Pinkney, Judge Nelson of the Supreme Court and many others that I might mention. Chief Justice Taney was a visitor at our house frequently during my childhood when he attended, as the Chief Justice always does, the sessions of the circuit of that district. His fame grows with the years.

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Reverdy Johnson and Colonel Charles Marshall undertook to represent me in a little difficulty I had some years ago with the late Hugh L. Bond, who was, in that day, a criminal judge in Baltimore and who endeavored to introduce me behind the bars in Maryland instead of at the Bar. We moved the case to Towsontown, where it died a natural death. For many years afterwards it was my privilege to practice law before Judge Bond and he told me that he had frequently, after hearing arguments of mine before him, regretted that he had not sent me to the penitentiary when he had an opportunity.

CENTRALIZATION BY CONSTRUCTION.

By John S. Wise, of New York.

Mr. President and Gentlemen:

Your invitation to deliver this address is a high compliment which I greatly appreciate. No State in the Union, except my blessed old mother State, Virginia, appeals more strongly to my affections than Maryland, nor is there any to whose people I am more indebted for life-long kindnesses and courtesies.

Besides these purely personal reasons for being glad to come here I remember that I stand before a representative gathering of a State bar, which has furnished to our profession one of the longest and ablest lists of lawyers in the Union.

Among the earliest of my childish recollections of law and lawyers are my father's descriptions of Mr. Pinkney, Luther Martin and Judge Nelson; Chief Justice Taney, whose fame grows with the years, was an honored guest in our home fifty years ago during his attendance upon the Virginia sessions of this circuit, in which the Chief Justice has always presided. Reverdy Johnson and Charles Marshall were my lawyers forty years ago, when the late Judge

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Hugh L. Bond, then presiding over your criminal court, threatened to admit me behind the bars in Maryland.

After that, for many years, I practiced before Judge Bond and met many prominent members of your bar. Even now your senior Senator, a lawyer of national reputation, was a life-long friend of my father and myself, and your junior Senator, my classmate, while many others of my early associates and companions are still upon your bench or active in the struggle for the emoluments and honors of our really great profession.

As late as April last I argued a case in your Court of Appeals. I shall make no reference to the. ability or learning of your present Court or compare them and the dead. If the subject is of interest, you may perhaps get an inkling of my opinion, by inquiring whether I won or lost the cases I tried before them.

When I was a boy in the Confederate Army over forty years ago I occasionally played "poker," not for money, for of that we had none, but for tobacco cut into the size of "chaws," or for hard-tack, or for any other little commodity which we happened to have on hand convenient. One of our party noted for his drollery was particularly fond of drawing to and betting upon queens. Whenever he filled to his draw and won he would kiss his queens before he laid them down calling them "ladies bearing flowers"; when, on the other hand, he lost, he would fling them away from him in disgust, applying to them profane and opprobious epithets.

In after life, in the game of law, our feelings toward judges, according as they decide for or against us, recall the sentiment of my poker-playing partner towards his queens.

Mr. Chairman and Gentlemen, permit me to say, without meaning offence to any one, that, as a rule, speakers on occasions like the present, are apt to be too serious, too prolix and too abstruse.

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What we really need at a gathering like this is a free discussion of topics of current interest, in such manner that it will be intelligible to laymen as well as lawyers.

This is not the plea of indolence or of flippancy. Such a discussion, to be at all valuable, must be the result of thorough study upon technical lines reduced by extra effort, both in bulk and expression, so that it may be read and understood by that vast majority of people who, while deeply interested in the question discussed, nevertheless frequently find themselves compelled to abandon the effort to follow a professional method of treatment.

There is now an important question uppermost in the minds of our profession—one likely to employ, for some time to come, our best energies of thought and discussion—one affecting the status of every citizen of the United States—one concerning which the people at large are anxiously awaiting the opinions of lawyers.

It is true that we have our full share of abuse and of ridicule like those in other callings. Notwithstanding this, however, it is no vanity to say that the legal profession exerts a greater influence upon public opinion than any other profession or calling in the world, not even excepting the clergy. It is with this feeling that I shall speak tonight.

I speak in the hope that what I say may be read outside of this gathering and may perchance even reach some who have done most to agitate this question, and may be pondered on by them not as the utterances of a malcontent, or of a chronic objector, but as the honest expression of one who loves his whole country—one who has studied the origin and progress of National and State Government—and one who sees both danger and difficulty in an agitation which can lead to no permanent results without additional constitutional amendments.

Briefly stated, the subject to which I refer is the proposition to expand Federal power by legal construction. That there is a widespread advocacy of this general idea no student of the present can doubt. However vaguely the

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notion may exist, it does exist and has its origin in arguments of convenience.

The party in power in Federal affairs has been pledged from the day of its birth to a recognition and defence of the reserved rights of the States under the Federal Constitution. Its first platform declared this. It denounced the right of secession, but warmly averred its respect for and determination to protect the reserved rights of the States. Unless sublime egotism, substituting undigested personal views, not even guided by legal training, for party tenets is to be accepted as true Republican doctrine, the Republican party is still thoroughly committed against the assumption by the Federal government of powers not delegated to it by the States themselves.

The propositions recently put forth by the present administration concerning the exercise of Federal powers in sundry directions, are so new that the people of this country have had no opportunity to express themselves at the polls in favor of or against them.

The administration of Theodore Roosevelt is undoubtedly popular. It possesses a hold on the masses of the people of this country which no sane man can ignore or deny. The President himself is a wonderfully virile and intellectual man. He has perhaps a more enthusiastic following than any President that ever held the office. The people at large believe that he is brave and honest. He has attacked fearlessly sundry abuses, against which the masses are undoubtedly arrayed. His popularity is not sectional. He has attracted to himself supporters in parts of the country in which no Republican has ever heretofore been able to make much impression upon the better classes. He has surrounded himself with a cabinet not altogether of Republicans but composed of men of remarkable ability, and his appointments to office, even to the highest offices, have not been confined either to members of his own party, or controlled by precedent.

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He is a political explorer and enthusiast, often appearing in roles, international and national, altogether unprecedented in the history of the presidential office. His activities, to say the least of them, are surprising, and many of them not in the line of old Republican ideas, but altogether novel and calling upon the party which placed him in the presidency to determine, when it next expresses itself, whether it will support him or not. By the boldness with which he has assumed these positions and the confidence with which he has demanded the support of his party, he has unquestionably advanced the Republican party to many positions which ten years ago we would have believed it impossible for it ever to occupy; but the demand is made sometimes for new endorsements on new lines, which, be they Republican or un-Republican, were ne'er dreamed of in our philosophy until they were laid down by Mr. Roosevelt; and the questions still undecided are, first, whether the Republican party will endorse him, and, second, whether, if it does not, he will be able to secure the support of the majority of the people of the United States.

The Secretary of State has announced that negro suffrage is a failure, and the present administration is proceeding, North and South, on that assumption.

This, if true, and I am not here to deny it, is a pitiful outcome of a vast deal of professions made in party platforms, and labor performed by the Republican party, unaided by any other party. In the absence of a necessity for making it it would seem to be an unnecessary confession by an administration elected as Republican.

The same Secretary of State, speaking presumably on behalf of the administration, has further declared, in general terms, at another time and place, that, by the march of progress, the development of national life, the necessities resulting therefrom, or by some other vaguely hinted influence, Federal power has increased, and State power has correspondingly diminished, in respect to sundry things

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which have until now been thought to be fixed by constitutional amendments and a long line of interpretation.

How this can be so under a Constitution which is the same as it has been for one hundred years, save as it has been amended in a few particulars, is not explained. Our President evidently believes that this is so. Being opposed to race suicide, he apparently also favors uniform Federal laws on marriage and divorce. He not only advocated the birth of children, but apparently thinks there is a way of framing some Federal law, which will first control the production of offspring and then regulate child labor in every commonwealth.

He favors Federal interference with the school systems of the States. He suggests Federal regulation of all classes of corporations, particularly insurance companies, regardless of any question of inter-state commerce. He discovers in Federal power no weakness or lack of jurisdiction, whether it be to arbitrate international difficulties, to exercise "benevolent despotism" over the inhabitants of the antipodes, or to regulate disputes at home between capital and labor.

Some of these things may have justification in the Constitution. Federal control over many of them has been consistently denied in a long series of Federal decisions. Yet all are justified, apparently, as are many others not enumerated, by the declaration ardently made that there must be somewhere in our laws authority to broaden Federal power by interpretation. The Constitution is to be so treated that the unguent of the growing needs of the United States is to be so applied to it as to make it an India-rubber Constitution.

I propose to show by the history of this government and by the decisions of the Supreme Court, the greatest tribunal in existence, that many of the things now proposed cannot be done lawfully, except by constitutional amendments; that this doctrine of Federal power increased by construction under the plea of changed conditions, is the most insidious

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and dangerous heresy ever brought forward to the people of America; that in it lurks a germ of which, if it be permitted to grow, will destroy the checks and balances of our system, and substitute therefor an absolutely uncertain government dependent on the caprice of the "powers that be" and upon the fancies of passing doctrinaires. That such a government would, in its essence, possess no element of permanency and no guarantee of liberty: that it would be liable to change according to the different constructions of different rulers, and that it would ultimately substitute a centralized and fickle tyranny for that indestructible union of indestructible States, which is now established, by a hundred years of peace, war, amendment, judicial construction, and, above all, by the will of the people.

This government had no central origin. The thirteen colonies, out of which it was ultimately formed, were markedly divergent in origin and in the habits and modes of thought of their respective people. Virginians were nothing like the Dutch of New York. Massachusetts people differed from both. The Quakers, who settled Pennsylvania, were a distinct type, as were the Swedes who settled Delaware. The Catholics of Maryland were constantly at feud with the Protestants of Virginia, as is shown by the Scarborough Report of 1662. No two communities could be more unlike than the early settlers of South Carolina and North Carolina. The colonies took no concerted action against England until after Massachusetts had fought three battles with her. It was months after Lexington and Concord and Bunker Hill before the Continental Congress even named a Commander-in-Chief.

The Articles of Confederation, under which the colonies co-operated, in the war with Great Britain, created no National Government, and the whole vitality of the so-called United States was dependent upon State action. There never was a citizen of the United States in any intelligent sense until 1787, when the Continental Congress made the citizens of the Northwest Territory, ceded by the definitive

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treaty of peace, citizens of the United States. It was a curious spectacle. A government without citizens of its own bestowed citizenship of itself upon the inhabitants of this new territory.

Mr. Madison, in the 37th paper of the Federalist, referring to this remarkable proceeding, declared that it was "without the least color of constitutional authority."

September 3, 1783, Great Britain recognized the struggling colonies, name by name, as thirteen free, independent and sovereign States. After gaining their independence, some of these States immediately adopted State constitutions, while others found their old Royal Charters sufficiently convenient as their charter of liberties for many years.

Rhode Island, for instance, continued to govern itself under the forms of the Royal Charter until 1843. It was not until September, 1787, that the Constitution of the United States was submitted to the States for ratification, and the operations of the general government did not begin under it until March 4, 1789.

Until the Constitution was ratified by nine States it was a nullity. Nine States had ratified the compact by June 21, 1788. Virginia and New York ratified before the first Congress met March 4, 1789. North Carolina and Rhode Island did not ratify until after the operations of the government began. North Carolina came into the Union November 21, 1789, and Rhode Island not until May 29, 1790.

In the custom house at New York, among the foreign vessels entering New York, a port of the United States, during the first year of the government, a number of Rhode Island vessels appear as foreign ships.

The reluctant States held back because they thought too much, not too little, power was given to the Federal government, because they feared this doctrine of Federal power by interpretation. North Carolina and Rhode Island never ratified the Constitution until after the IXth and Xth amend-

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ments had been submitted to the State legislatures by Congress.

They were adopted in December, 1791, and declare a fundamental rule of construction of the Constitution, almost as old as the Constitution itself, that the enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people, and that the powers not delegated to the United States by the Constitution, nor prohibited to the States, are reserved to the States respectively.

Both these amendments have been construed by the Supreme Court, the IXth in the case of Livingston *vs.* Morse et al, 7 Peters 469; the Xth in a long line of decisions, beginning with Chisholm *vs.* Georgia, 2 Dallas 419, and ending with Pollock *vs.* Far. L. & T. Co., 157 U. S. 429.

The Constitution on which this government depends creates a government of limited and defined powers. No human being has ever questioned that. On the question of the right of secession the Constitution was silent. That question was not settled until seventy-six years later and then by force of arms. But, in the interim, many other questions have been settled, which it is now sought to reopen by the assertion of larger powers in the Federal government than were ever claimed for it before.

Let us review a few of these.

First. Of the regulation of commerce with foreign nations and among the several States and with the Indian tribes. This grant has been more elaborately considered and more fully discussed, and more power drawn to the Federal government under it by Federal decisions, than any other clause of the Federal Constitution.

The last great decision upon this subject was rendered in 1904, in the case of the Northern Securities Co. *vs.* the United States, 193 U. S. 197. But, away back, in the year 1824, in the case of Gibbons *vs.* Ogden, 9 Wheaton 1, the master mind of Marshall pointed out and announced the funda-

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mental principles which underlie that grant, and they have never been disturbed by any subsequent decisions. In that court it was held that the grant of power to the Federal government to regulate commerce with foreign nations, and among the several States and with the Indian tribes, was not only absolute but was exclusive of the rights of the States to legislate on these subjects.

Nobody ever doubted the readiness of John Marshall to sustain every grant of power in the Federal Constitution to the Federal government. Yet in that very decision he was careful to point out that the power to regulate commerce did not affect the exclusive right of the States to legislate other subjects referred to as "a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to the general government; all which can be most advantageously exercised by the States themselves."

After enumerating sundry subjects which form component parts of this immense mass, he added "No direct general power over these objects is granted to Congress, and consequently they remain subject to State legislation."

No party in this country, up to the time of the Civil War, notwithstanding the fierce contest over the rights of secession, nor since then, has advocated the broad Federal powers now insisted upon by the Roosevelt administration. On the contrary, the Republican party, which assumed all burdens of the civil conflict to preserve the Union, denied, in its first platform, any purpose to interfere with the reserved rights of the States, and insisted that it was battling simply for the perpetuity of the Union under the Constitution as it was then framed and as it has been interpreted by the Supreme Court.

That party, under the leadership of Lincoln, triumphed in the war of secession. Its triumph was complete. It became the sole exponent of the national idea. The opponents of perpetual union were prostrate at its feet. It had it in its power then to enact any amendment of the

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Constitution by which it thought it necessary to enlarge and extend Federal authority to new subjects.

It was unrestrained by any potent opposition. In the full enjoyment of its triumph it did enact three amendments to the Federal Constitution, and only three, the XIIIth, XIVth and XVth.

In the forty years which have since elapsed nearly five hundred cases have been decided by the Supreme Court of the United States, upon questions arising under these amendments.

No line of decisions is more exhaustive of the subject considered. It is almost impossible to conceive a case in which a question of changes wrought in the Federal Constitution by these amendments, in the powers of the Federal government, or of the States, or in the rights of individuals, could be presented to the Supreme Court in a new aspect.

Beginning with the great Slaughter House decision and the case of Texas *vs.* White, and extending down to the present day, the Supreme Court of the United States has held:

1st. That the government of the United States exists under a written constitution with powers, which, while they are supreme in their sphere, are neither unlimited nor undefined.

2nd. That it is an indestructible union, but that is composed of indestructible States.

3rd. That the duty to preserve its own existence was plain but not less sacred than that of guaranteeing to the States a Republican form of government, and to protect their reserved rights.

4th. That the amendments known as the war amendments were enacted for the specific objects named in those amendments, that they created no organic constitutional change in the relations between the Federal government and the States, and that they were restricted in their operation to the particular subjects referred to in the amendments.

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The XIIIth amendment simply abolished slavery without altering the relation of the Federal government to the States or the States to the Federal government in any other respect.

The XIVth amendment defined the citizenship of all persons born or naturalized in the United States, forbade the making or enforcement of any law by the States abridging the privileges or immunities of the citizens, and forbade any State from depriving any person of life, liberty or property, without due process of law, or from denying to any person within its jurisdiction the equal protection of the law.

This amendment conferred no new power on the Federal government beyond the power to restrain States from certain inhibited action. It gave the Federal government no new powers theretofore exercised by the States. It merely enlarged Federal authority to the extent of enabling it to demand the observance by the States of a rule on these subjects, by which the Federal government itself had been restrained since the adoption of the Federal Constitution.

The XVth amendment simply forbade the United States, or any State, from denying or abridging the rights of citizens to vote, on account of race, color or previous condition of servitude.

Thus we see that the general relations of the Federal government to the States and the States to the Federal government, as they existed under the original constitution, and the early amendments were unaffected by these war amendments. Whoever, therefore, asserts a broader or more latitudinarian view of Federal power or that the reserved rights of the States are more insignificant, than they have been generally understood, must not only find his warrant for such contention in the Constitution itself, but is met by a long line of decisions to the contrary upon the subject.

It is true that a greedy horde of litigants arose after the adoption of the XIVth amendment, imagining to themselves all sorts of warrants to invoke Federal interference and

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asserting rights never theretofore deemed to be under the protection of the Federal power. The Federal Courts were filled with litigants of this class for years after the Civil War. They have presented every variety of claim until, in the case of Davidson *vs.* New Orleans (96 U. S. 97), decided in 1877, the Supreme Court of the United States, speaking through Mr. Justice Miller, said:

"It is not a little remarkable that, while this provision has been in the Constitution of the United States, as a restraint upon the authority of the Federal government for nearly a century, and while, during all that time, the manner in which the powers of that government have been exercised has been watched with jealousy and submitted to the most rigid criticism in all its branches, this special limitation upon its powers has rarely been invoked in the judicial forum or the more enlarged theatre of public discussion; but while it has been a part of the Constitution, as a restraint upon the power of the States, only a very few years, the docket of this Court is crowded with cases in which we are asked to hold that State courts and State legislatures have deprived their own citizens of life, liberty or property without due process of law. There is here abundant evidence that there exists some strange misconception of the scope of this provision as found in the XIVth amendment. In fact it would seem from the character of many of these cases before us and the arguments made in them that the clause under consideration is looked upon as a means of bringing to the test of the decision of this Court the abstract opinions of every unsuccessful litigant in a State court of the justice of the decision against him and of the merits of the legislation in which such a decision may be founded."

And in a later case—In re Kemler, decided in 1890, 136 U. S. 448, the Supreme Court said:

"The XIVth amendment did not radically change the whole theory of the relations of the State and Federal governments to each other and of both governments to the people. The same person may be at the same time a citizen

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of the United States and a citizen of the State. *Protection of life, liberty and property rests primarily with the States, and the amendment furnishes an additional guarantee against encroachment by the States upon those fundamental rights which the State governments were created to secure.* The privileges and immunities of citizens of the United States, as distinguished from the privileges and immunities of citizens of the States, are indeed broadened by it, but those are privileges and immunities arising out of the nature and essential character of the national government, and granted or secured by the Constitution of the United States."

Female suffragists have invoked Federal protection. Female professional people have sought Federal aid to compel States to allow them to practice. Women have gone to the Supreme Court of the United States, in the effort to compel the State authorities in Louisiana to repeal laws confining them to certain sections of the City of New Orleans. Owners of Newfoundland dogs, protesting against State laws of taxation, have taken their case to the Supreme Court invoking Federal protection. Non-resident corporations have appealed from State legislation against them. Chinamen have invoked the protection of these amendments. Black men have invoked the amendment to compel mixed schools, mixed marriages, mixed accommodations in hotels, theatres and public conveyances. Indians have invoked the Federal power under the amendments.

To name the different classes, which have seemed to regard the XIVth amendment as a panacea, would be to make up a roll of almost every conceivable variety of litigant. Yet out of the vast array of cases which have gone to the Supreme Court under these amendments, but thirty plaintiffs have successfully maintained their presence in a Federal Court under the warrant of these amendments. Time and time and time again the Supreme Court has turned them away with the oft-repeated warning that their cases present no subject of Federal cognizance under the original Constitution or the amendments; that their remedy, if any

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exists, must be found in that vast residuum of power, belonging to the States, not surrendered to the general government.

The theory of the new propagandists seems to be that the question of the jurisdiction of Congress and of the Federal Courts was not settled by the Supreme Court upon fixed principles, but upon principles as elastic as the changing conditions of society and business; that if the conditions of society and business have changed since these decisions were rendered that justifies a changed construction of the language of the Constitution. Let us examine a few of these contentions.

The Supreme Court of the United States in the case of Cumming *vs.* The Board of Education, 175 U. S. 528, decided in 1899, had to consider a law of Massachusetts regulating the separation of the races in public schools. It refused to interfere with State action, saying: "Interference on the part of Federal authority with the management of such schools cannot be justified, except in the case of a clear and unmistakable disregard of rights secured. . . . The education of the people in schools maintained by State taxation is a matter belonging to the respective States."

There is much else in this opinion which might be quoted to advantage, but the above is sufficient to emphasize this inquiry: "By what right can Federal authority interfere with the laws of any State regulating the classification of children in schools maintained by State taxation?"

And again, in a long series of Federal decisions, it has been held that every State in this Union has a right to prescribe the terms upon which corporations chartered by other States may be admitted to do business within its limits. The Supreme Court has said that such corporations are not citizens of any State in the sense that any rights are guaranteed to them in any other State under the Federal Constitution.

While they are under the protection of the XIVth amendment, against discrimination, they are not entitled to do

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business in a State other than that of their creation, save on such terms as it may prescribe. The authorities on this point are multitudinous. (Bank of Augusta *vs.* Earle (1839), 13 Pct. 519; Lafayette Ins. Co. *vs.* French, 18 How. 404; Paul *vs.* Virginia, 8 Watt. 168; Pembino, etc., *vs.* Penn., 125 U. S. 181; Orient Ins. Co. *vs.* Daggs, 172 U. S. 561.)

In view of them I beg to inquire, this being the undoubted law,—How is it possible to enlarge the powers of the Federal government so as to enable it to regulate corporations or authorize them to do business in any State on terms not assented to by the State itself?

Yet such is the proposition of the new propagandists.

Again it has been repeatedly decided that marital rights of a special nature, bestowed by a State upon its own citizens residing within its borders, do not accrue to non-residents; that where States control the contracts of marriage of its citizens within their borders, the Federal guaranties do not extend to the enforcement of this class of contracts, which involve rights derived from the State of the party's residence. (Connor *vs.* Elliott, 18 How. 593, decided in 1855; Andrews *vs.* Andrews (1903), 188 U. S. 14.)

Again I ask—Whence is derived the Federal power now so blatantly asserted over questions of marriage and divorce?

Another subject, on which the President seems to think Federal authority has power to interfere, is child labor. From the fact that child labor should be regulated it does not follow that Federal authority may regulate it. Indeed a long line of decisions in the Supreme Court are to the effect that the States have in the exercise of their police powers the exclusive power to regulate this as all other business pursuits. State authority has been sustained to establish slaughter houses; to control and regulate the business of laundries, both concerning the limits within which they shall be conducted and their hours of business; to regulate the liquor traffic; to inspect food supplies; to

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guard against the introduction of infected cattle; to prohibit business on Sundays; to require licenses from vendors; to regulate the flow of oil wells; to forbid unlawful combinations of citizens; to regulate markets, dairies, railroads in streets, grade crossings, fishing, the inspection of mines; to regulate marriages; to control the times and places of marching of processions or holding public meetings; to regulate women's rights; to regulate the practice of the professions, and to prescribe the qualifications of suffrage.

If the States possess exclusive control over these subjects, is it not a little remarkable that power is to be inferred to the Federal government to control the employment of child labor?

The claim of Federal power, under the general welfare clause, has been asserted upon many subjects, but that clause has never heretofore been invoked for the exercise of a power like this.

The commerce clause is certainly not relevant to this subject. Yet enthusiastic centralizationists suggest that if one State limits child labor to a certain age, while another State permits child labor at an earlier age, this makes an unfair commercial competition between the products of child labor in different States when they are sold in the same market. A sort of inter-state commerce in children.

Suppose it does. What has Federal power to do with that?

The difference in wages paid and in the cost of raw material in Maine and Georgia in the lumber business is great. The government has no power to attempt to equalize these. The question of child labor is plainly a police question within the absolute control of every State in the Union, according to the judgment of the people of each State concerning what is right in the employment of child labor. It is a subject with which the Federal government has nothing to do and can have nothing to do. It is part of the police power of the State never delegated to the nation.

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The attempt on the part of the Federal government to infer power on that subject to itself is a usurpation based upon a fanciful and sentimental idea of the all-pervasiveness of Federal power and an impertinent intrusion into the affairs of the States. The power to regulate child labor was no more granted to the Federal government by the Federal Constitution than was the power to control fishing or hunting in the States. It is one of those subjects not included in the grant of the Constitution, either expressly or impliedly.

In the cases of McCready *vs.* Virginia, 94 U. S. 391, involving the right to fish in Virginia waters, and Geer *vs.* Connecticut, 161 U. S. 519, involving a question of hunting in Connecticut, the Supreme Court of the United States held that the States of this Union never delegated to the Federal government any power to enact laws concerning the fish or game within their respective limits. No more did the States grant control over the question of child labor or the education of children in schools created and supported by them.

Yet an argument has been recently advanced by a really great lawyer, Mr. Root, the Secretary of State, which, if it means anything, means that if the Federal government makes a treaty with a foreign power, that treaty, being the supreme law of the land, binds the States and controls their action, although it may be upon a subject concerning which the Federal government had no power to legislate.

The fallacy of this argument is plain. The treaty-making power of the United States, while it is exclusive, is not unlimited, and, while a Federal treaty upon a lawful subject is the supreme law of the land, a treaty on a subject, concerning which the Federal government has no authority, is no more binding upon the States, because it is made with a foreign power, than it would be if it were an act of Congress, whereby the United States attempted to exercise directly against the States a jurisdiction it did not possess.

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Surely if the Federal government has no power to regulate marriage and divorce, it could not assume that power by making a treaty with a foreign nation concerning the status of married people of the foreign country in one of the States. If the Federal government has no power to regulate the classification of children in schools supported by the State, its attempt to guarantee to a foreign nation by treaty that it will do so, is as null, as to the States themselves, as a direct attempt against the State would be.

An illustration of this may be found in the power of the Federal government over fisheries. Unquestionably the Federal government may treat with Great Britain touching fishing along the Newfoundland Banks. Its power to do so is derived from its jurisdiction over the high seas. But if it attempted to enter into a treaty with Great Britain, notwithstanding the decision of the Supreme Court, whereby, in consideration of concessions by Great Britain, it undertook that citizens of Great Britain might fish in the waters of Chesapeake Bay, contrary to the rights of the people of Virginia, or shoot in Connecticut, contrary to the rights of the people of that State, can any sane man pretend that, because the treaty-making power of the government is exclusive, it is also absolute, or that it cannot be questioned by the States affected when the government attempts to make a treaty with a foreign nation upon a subject, over which it has no jurisdiction?

If the Federal government is thoughtless enough to enter into such a treaty, whereby it assumes to guarantee, within any State, things which it cannot control, such ill-advised action brings it face to face with a dilemma in which it must either fail to perform its treaty obligations or violate its guaranty to the States.

Without having studied the case thoroughly, it seems to me that the Japanese treaty presents just such a case. If so, the Federal government owes its first duty to the States and should notify the foreign government holding such a treaty that it will not call upon any State to execute such an

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obligation, because it has no right to do so, and because it assumed the obligation unadvisedly, and cannot perform it against the protest of the State.

Every State in the Union would sustain the government in such action and would favor a war rather than see a sister State forced to yield the point, for the attempt to enforce such a treaty would be to break down every barrier of States' rights. Moreover, any foreign nation entering into negotiations with the Federal government is presumed, when it does so, to know the extent of Federal power, and that the Federal government can no more, under a treaty, invade the reserved rights of the States, than it might under any other form of Federal enactment.

The recent speeches of President Roosevelt seem to indicate a singular ignorance of the boundary line between Federal and State powers.

The governor of a State who should devote his addresses to discussing how the United States Navy should be organized, or how foreign commerce should be regulated, would be justly chargeable with volunteering advice in matters in which he had no voice.

The case would not be different, as it seems to me, from that of a President who devotes his time to addresses upon child labor, fellow servant laws, and the like, which are subjects for consideration of the States, in the exercise of their reserved powers. He might profit by the story of the little darkey who when asked why his nose was so short replied, "I dunno, sir, but I spec it was to keep me from pokin it into other folks' bizness."

Gentlemen of the Maryland bar, I am neither an extremist on States' rights nor an alarmist. Jealousies of Federal power and apprehensions such as we find expressed in the dissenting opinion of Mr. Justice White, in the Northern Securities case, have always rather amused me. They are mere nightmares. Why do I think so? Because I have unbounded faith in the common sense of the American people and their ability, when aroused to the fact that either

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Federal or State aggression is seriously attempted, to rise to the occasion and redress the abuse. This faith too quiets any alarm about the future.

I have pointed out to you only a few of the subjects to which the extremist doctrines now prevalent would, if they could, extend Federal power.

I believe the people of all the States love their States too well to be willing to see them shorn of their ancient dignities and bound captives behind the triumphal chariot of centralization as mere handmaids to do its bidding on minor subjects. At least I know this to be so in the Old Thirteen Original Colonies. The feeling is as strong in Massachusetts as in Maryland or South Carolina.

No President has ever been elected on any platform of supreme Federal power on all subjects, or on the theory of increasing Federal dominancy based upon changed social and industrial conditions. These are new doctrines discovered and propagated since the last election. I do not believe any political party will dare to plant itself or seek popular support upon such a platform. If it should do so, I am equally convinced it will be many a day before the people of this country will be deluded into support of such a suicidal policy.

But the time has come when the majority of thinking men, who equally reprobate the opposite extremes of certain rival politicians, should say to them, "A plague on both your houses." We should rejoice at their reluctant confession that party allegiance, according to old alignments, sits very lightly on most men's shoulders in our happy land.

It is a time when we should look about us and try to find some conservative leader, be his party antecedents what they may, who will plant himself on a platform generous in its recognition of Federal authority in its proper sphere, and yet tenacious of the reserved rights of the States. One who is neither a czar nor a socialist, a dictator nor an anarchist; one who in fact as well as in profession believes that this indestructible Union is composed of indestructible

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States, that the preservation of each is indispensable to the preservation of the other, and that the old time religion of John Marshall, Roger B. Taney and Salmon P. Chase, on constitutional questions, is good enough for us.

It would be well for these self-constituted constitutional excursionists, some of whom declare that statutes already pronounced unconstitutional by the Supreme Court, are nevertheless good laws and should be retained upon the statute book, to remember that after all their empyricism has been indulged in it must at last confront and pass under the calm scrutiny of that great tribunal composed of lawyers and not of doctrinaires which has blazoned this great truth across their pathway as a warning to them, in letters of light which the wayfaring man though a fool may read and understand.

"We are bound to interpret the Constitution in the light of the law as it existed at the time it was adopted, not as reaching out for new guaranties of the rights of the citizen, but as securing to every individual such as he already possessed. . . . Such as his ancestors had inherited and defended since the day of Magna Charta." (Mattox *vs.* U. S. (1895), 156 U. S. 237.)

So long as the Constitution is construed by that great tribunal to which Virginia gave Marshall and Maryland gave Taney, we shall never have occasion to sing

> The despot's heel is on thy shore,
> Maryland, my Maryland.
> His torch is at thy temple door,
> Maryland, my Maryland.

Empyries, egotists, doctrinaires, enthusiasts, demagogues and cranks will continue to propound new theories of Federal and State relations, and certain of the people, sometimes a few, sometimes many, will be deluded sometimes by plausibility, sometimes by eloquence, sometimes by the argument of convenience, sometimes by this, sometimes by that. Then these strange new doctrines will run their full

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course and be like the grass of the field, which today is and tomorrow is cast into the oven.

For the Supreme Court, by the light of calm truth, by the fire of incorruptible integrity, by the inexorable logic of unclouded reasoning, will test them to their last analysis, will weigh them in the balance and find them wanting. And our glorious Union of States, which make a Nation, and our glorious Nation, which will lose its glory when its States shall cease to be, will go on, relieved of such heresies, strengthened by such vain assaults, in its marvelous career, like Goethe's star—

"Unhasting, unresting"

to a destiny, the possibilities of which seem boundless.

Ferdinand Williams, of Cumberland: I move that a vote of thanks be extended to Mr. Wise for his address, to which we have all listened with such profound interest.

The motion was seconded and unanimously carried.

The President: The next business in order is the report of the Committee on Admissions.

Harry E. Mann, of Baltimore City: I beg leave to submit the following report:

REPORT OF COMMITTEE ON ADMISSIONS.

Mr. President and Members of the Association:

The Committee on Admissions have the honor to submit the following report:

In view of the large number of practicing members of the bar, who are not members of this association, your committee thought proper, with the sanction of the Executive Council, to make some effort to increase the membership, and it gives us pleasure to report that during the year the

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following named gentlemen were proposed for membership, and being approved by your committee, were admitted by the Executive Council:—German H. H. Emory, William H. Lawrence, J. Milton Lyell, Alexander L. Seth, Thomas C. Weeks, Julius H. Wyman, C. John Beeuwkes, William F. Pirscher, Herman T. W. Heimiller, Fillmore Cook, W. W. Parker, William B. Smith, Edwin R. Stringer, Henry A. Ulrich, John H. Walraven, John P. Horsey, J. Mercer Garnett, Jr., Arthur L. Jackson, Howard M. Emmons, Clifton D. Benson, William R. Barnes, Gilbert B. Porter, Randolph Barton, Jr., William Ewin Bonn, Lindsay C. Spencer, Edwin H. Brownley, J. Edward Tyler, Jr., T. Howard Embert, Laurie H. Riggs, Ward Baldwin Coe, Charles W. Field, G. W. S. Musgrave, Joseph N. Ulman, David M. Newbold, Jr., Robert H. Carr and John Emory Cross, all of Baltimore City; John Mays Little and A. A. Piper, of Towson; F. Wilbur Bridges, of Hagerstown; and John D. Cronmiller, of Laurel.

Your Committee have the further honor to report the names of the following gentlemen, who have been duly proposed, and are now recommended for admission: Ridgely P. Melvin, of Annapolis; James F. Thrift, of Baltimore City; Edward M. Hammond, of Ellicott City; J. Wilson Squier, of Elkton; Sydney E. Mudd, of La Plata; Henry B. Freeny, of Salisbury; Blair Lee, of Silver Spring; Clarence M. Roberts and George B. Merrick, of Upper Marlboro.

Your Committee are informed that in at least one county of the State it is impossible for members of the bar to qualify for membership in this association, because the local bar association, while still in existence, has not held a meeting for years, and therefore we cannot accept members from that county, because the provision of the constitution governing the admission of new members cannot be complied with. In view of this and of the fact that the same condition may exist in other counties, and further in view of the fact that the membership of the bar in all the counties

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is comparatively small and all members of the bar are well acquainted with each other, your committee recommend that the constitution be amended by eliminating the provision which makes membership in an applicant's local bar association a condition precedent to membership in this body, so far as the same applies to the several counties of the State.

All of which is respectfully submitted.

HARRY E. MANN, *Chairman.*

L. A. Wilmer, of La Plata: I move that the Secretary cast the ballot of this Association for the members proposed in the report of the Committee on Admissions.

The motion was duly seconded and carried, and the Secretary cast the ballot in favor of the election of the gentlemen recommended for membership.

Harry E. Mann: The committee requests that the resolution as to the amendment of the constitution be referred to the Executive Council with instructions to report during this session.

The President: The matter is referred to the Executive Council.

The President: The next business in order is the report of the Secretary.

SECRETARY'S REPORT.

The Secretary reports that he has performed the usual duties of his office and under the direction of the Executive Council, prepared and published the report of the Association for 1906.

He desires to call the attention of the members to the fact that he has on hand a large number of reports for 1903 and 1904 and 1905. Evidently a number of the members have not received these reports on account of some confusion in

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the records of the office, which has now been corrected and will not occur in the future. If any member has not received those reports and will call attention to the fact by letter or verbally at this meeting the deficiency will be supplied.

The Secretary also desires to state that it appears the members of the Association feel a great deal less interest in the reports than outsiders. There are requests for volumes of the reports of the Maryland State Bar Association which cannot be sent because in the great fire of 1904 the office of the Secretary was destroyed with all its contents including the reports issued prior to that date, which are very scarce and are becoming more and more valuable. It is requested that if any member of the Association has duplicate copies of the reports published prior to 1903 he will send them to the Secretary so that the demand for such volumes from libraries and bar associations of other States may be supplied.

JAMES U. DENNIS,

Secretary.

On motion the Secretary's report was received.

The President: The next business in order is the report of the Treasurer.

The Treasurer. I have the honor to submit the following report:

TREASURER'S REPORT.

THE MARYLAND STATE BAR ASSOCIATION, *in account with* FRANK G. TURNER, *Treasurer.*

To amount received from Frank G. Turner, Treasurer, for the year 1905-1906	$856.99
To membership dues, 1902-1903, $5.00 each, received from the following two members:	
Joseph B. Seth and William C. Smith	10.00

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To membership dues, 1903-1904, $5.00 each, received from the following three members:

Alex. Hardcastle, Harry M. Benzinger and Thomas Ireland Elliott 15.00

To membership dues, 1904-1905, $5.00 each, received from the following five members:

William G. Towers, Alex. Hardcastle, William Grason, Harry M. Benzinger and Thomas Ireland Elliott 25.00

To membership dues, for 1905-1906, $5.00 each, received from the following 34 members:

William G. Towers, Rufus W. Applegarth, Alex. Hardcastle, Z. Howard Isaacs, William Grason, Harry M. Benzinger, Thos. I. Elliott, W. H. Lamar, James C. Rogers, R. Lee Slingluff, George L. Vanbibber, Hammond Urner, Edward G. Gibson, T. Roland Slingluff, Fielder C. Slingluff, James J. Lindsay, E. J. Griffin, Albert E. Donaldson, John G. Gontrum, Jos. W. Brister, A C. Trippe, A. H. Taylor, J. H. C. Legg, Edward O. Weant, Arthur D. Willard, Abraham C. Strite, James W. Owens, Frank F. Ramey, Archibald A. Young, Charles Alvey, John T. Mitchell, A. Leo Knott, W. H. Perkins, Jr., Louis Putzell 170.00

To membership dues, 1906-1907, $5.00 each, received from the following 392 members, viz.:

Charles B. Tiernan, James E. Ellegood, W. Burns Trundle, L. A. Wilmer, William F. Porter, John B. Gray, Ferdinand Williams, Arthur D. Foster, Reuben Carll Foster, R. M. Duvall, D. W. Doub, W. C. Devecmon, W. H. Adkins, William H. Deweese, Henry Page, A. W. Machen, Jr., Alfred J. Shriver, L. W. Wickes, Fillmor Beall, William A. Wheatley, William P. Lyons, D. G. McIntosh, Arthur Peter, George W. Wilson, John W. D. Jump, T. Hughlett Henry, James J. Lindsay, Charles McH. Howard, Emil Budnitz, Alfred D. Bernard, Richard Bernard, John Hinkley, John T. Morris, Harry C. Gaither, Martin Lehmayer, James U. Dennis, M. Gregg, Robert W. Beach, James R. Brewer, Jr., W. H. Dawson, Charles M. Howard, James P. Gorter, Leon Greenbaum, Ernest Hoen, Jr., Arthur Herzog, John C. Motter, Francis K. Carey, Robert R. Henderson, Washington Bowie, Charles R. Miller, George W. Covington, Joshua W. Miles, Carroll T. Bond, Carville D. Benson, David Ash, Harry E. Mann, J. A. Mason, F. C. Hendrickson, G. S. Hamill, R. H. Bussey, H. Fillmore Lank-

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ford, C. M. Armstrong, C. M. Little, Roger T. Gill, D. J. Blackistone, Peter J. Campbell, S. H. Laucheimer, Augustus M. Denhard, Jos. C. France, George R. Willis, Lewis Hochheimer, A. M. Tyson, Joseph Packard, Hope H. Barroll, Chas. T. Bagby, H. Arthur Stump, John E. Semmes, Louis B. Bernei, Myer Rosenbush, Adrian Hughes, Benj. A. Richmond, John W. Staton, Jay Williams, H. L. D. Stanford, Guion Miller, Edwin J. Farber, Clayton Purnell, W. E. Walsh, W. Irving Cross, William S. Thomas, N. Winslow Williams, Henry Williams, Robert Lyon Rogers, W. S. Bryan, Jr., John F. Williams, George Whitelock, John B. A. Wheltle, DeW. H. Reynolds, Richard M. Venable, George C. Merrick, E. C. Peter, John S. Newman, David Stewart, Morris A. Soper, William B. Levy, John P. Briscoe, James McEvoy, Jr., Albert C. Ritchie, Charles E. Fink, A. S. Williams, Francis N. Parke, W. V. Bouic, Jackson H. Ralston, T. Alan Goldsborough, Francis T. Homer, Walter I. Dawkins, R. H. McCleare, Thomas Mackenzie, George A. Pearre, Lawrason Riggs, Thomas J. Morris, F. Brooke Whiting, C. A. M. Wells, Edwin H. Brown, John D. Urie, W. Hall Harris, C. Baker Clotworthy, Charles P. Coady, Stuart S. Janney, John L. V. Murphy, Charles F. Stein, Albert H. Wehr, J. A. C. Bond, Charles J. Bonaparte, Elmer H. Walton, Charles E. Phelps, B. Howard Haman, Charles J. Baldwin, R. B. Tippett, John R. Pattison, Thomas Hughes, Henry D. Harlan, Randolph Barton, Peter E. Tome, John J. Dobler, Nicholas P. Bond, B. Howell Griswold, Jr., Edwin Warfield, D. K. Este Fisher, Edward H. Sappington, H. W. Talbott, Vernon Cook, Edwin G. Baetjer, A. P. Gorman, J. Clarence Lane, Edgar H. Gans, William H. Buckler, John J. Hurst, Albert J. Long, William Penrose, Ade R. Sappington, J. Briscoe Bunting, Samuel J. Harman, Gordon Tull, T. Foley Hisky, Fred. R. Owens, J. Henry Baker, John M. Requardt, George W. Williams, James M. Ambler, Henry C. Kennard, D. G. Wright, Louis P. Henninghausen, J. N. Willison, John B. Deming, Frank Gosnell, George C. Thomas, Henry M. Nitzell, Henry Stockbridge, M. L. Keedy, Roland B. Harvey, James W. Thomas, Robert Biggs, Martin G. Kenny, R. D. Jones, Frank H. Stockett, C. Hopewell Warner, John G. Wilson, Eli Frank, N. Charles Burke, George C. Morrison, Moses R. Walter, A. Hunter Boyd, Edgar G. Miller, Jr., E.

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Stanley Toadvin, James W. Chapman, Jr., Robert F. Stanton, George M. Sharp, Redmond C. Stewart, John C. Rose, George P. Bagby, William Kealhofer, Thomas A. Whelan, George R. Gaither, Forrest Bramble, Hugh L. Bond, Joseph W. Brister, Pere L. Wickes, J. Kemp Bartlett, William Duncan, R. F. Brent, E. Allan Sauerwein, Jr., William T. Brantley, I. Thomas Jone, William J. O'Brien, Jr., Louis N. Frank, Ralph Robinson, R. Bennett Darnall, Hyland P. Stewart, Frederick Dallam, S. Johnson Poe, John P. Poe, H. W. Vickers, Alfred S. Niles, Daniel P. Randall, L. M. Haines, Osborne I. Yellott, Charles Herzog, Clarence A. Tucker, William S. Evans, Frederick J. Singley, Arthur George Brown, Charles G. Cromwell, David Fowler, R. H. Bayard, J. Booker Clift, Thomas G. Hayes, A. C. Binswanger, Charles H. Knapp, M. G. Urner, Chas. T. Reifsneider, Daniel M. Murray, Edward G. Gibson, J. Hemsley Johnson, James Revell, Frederick T. T. Dorton, Maurice E. Skinner, A. H. Taylor, W. L. Marbury, W. Browne Hammond, Ph. L. Goldsborough, Lloyd Lowndes, Henry Lloyd, Glenn H. Worthington, J. H. C. Legg, W. H. Brune, James E. Carr, Jr., Charles M. Kelly, William H. Lawrence, James R. Brashears, John H. Grill, John M. Carter, Abraham Sharp, Frank V. Rhodes, William H. Surratt, Charles Quigley, J. Edwin Webster, Stewart Brown, Benj. F. Crouse, Elmer J. Cook, Robert H. Smith, Charles D. Wagaman, Chas. W. Prettyman, Edward O. Weant, Henry H. Keedy, Buchanan Schley, Nicholas H. Green, T. A. Poffenberger, Arthur D. Willard, Isaac Brooks, Jr., Thomas N. Copenhaver, J. Upshur Dennis, Charles J. Bouchet, L. E. McComas, J. H. Covington, J. S. T. Waters, Bernard Carter, O. F. Hershey, Henry H. Hubner, A. C. Strite, J. Frank Harper, Eugene O'Dunne, P. L. Hopper, Conway W. Sams, Henry W. Rusk, William W. Beck, Robert Crain, Oscar Wolff, Walter J. Mitchell, W. Mitchell Diggs, W. W. Parker, Ward B. Coe, P. Bartley Watts, Austin A. Wilson, Alexander L. Seth, Julius H. Wyman, D. G. McIntosh, Jr., Randolph Barton, Jr., Edwin R. Stringer, David M. Newbold, G. W. S. Musgrave, Fillmor Cook, John Emory Cross, A. A. Piper, A. A. Doub, Lee S. Meyer, John G. Schillpp, James W. Owens, Jos. N. Ullman, Edward N. Rich, R. E. Lee Hall, Eugene Oudesluys, Frank F. Ramey, Guy W. Steele, Archibald

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A. Young, Charles Lee Merriken, W. Mason Sheehan, James A. McHenry, Philemon H. Tuck, Robert H. Gordon, J. Charles Linthicum, Nathan T. Fitch, J. Wirt Randall, J. Walter Lord, Oliver D. Collins, Louis J. Burger, John D. Worthington, John G. Rogers, William H. Bayless, Emanuel W. Herman, Norman B. Scott, Jr., F. Snowden Hill, John T. Mitchell, Robert H. Carr, Samuel D. Schmucker, John Warfield, Alex. A. Robertson, Robert W. Wells, George A. Finch, Nicholas H. Green, George A. Solter, Howard Bryant, Thomas B. Mackall, George C. Thomas, Henry J. Waters, A. Leo Knott, James M. Munroe, William B. Smith, W. H. Perkins, Jr., William M. Lewin, C. Wilbur Miller, Henry A. Ullrich, Oscar Leser, Charles W. Field, Oregon M. Dennis, James McSherry, Hammond Urner, German H. H. Emory, E. J. W. Revell, Louis Putzell, John P. Horsey, Edw. A. Robinson, W. H. Talbott, Richard K. Cross, William Grason, Lindsay C. Spencer, William E. Bonn, Henry R. Lewis, John F. Gontrum, William S. Bansemer, B. Harris Camalier, J. Frank Turner, Charles H. Stanley, J. Mercer Garnett, Jr., Henry J. Broening, J. Milton Lyell, A. S. J. Owens, William S. Thomas, M. A. Mullin, Martin Lehmayer, Frank I. Duncan, T. Scott Offutt, A. Bernard Chancellor and Laurie H. Riggs..... 1,960.00

To membership dues, 1907-1908, $5.00 each, received from the following five members:
Edward O. Weant, J. Walter Lord, James A. Pearce, Martin Lehmayer and George C. Thomas..... 25.00

$3,061.99

To amount received for interest on deposit..... 9.84

Total Receipts.....$3,071.83

DISBURSEMENTS AS PER VOUCHERS.

By expenses of Committee on Arrangements, including banquet, entertainment, etc..... $699.83
By expenses of Secretary to July 1, 1906..... 129.08
By amount paid for cigars and cigarettes..... 43.00
By amount paid Lucas Brothers, printing..... 3.50
By amount paid Kuhle & Love, wines, etc..... 105.50
By expenses of Treasurer from July 11, 1906, to September 11, 1906..... 68.50

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By expenses of C. S. Chesney, reporting the proceedings of 1906	65.00
By expenses of Treasurer from September 11, 1906, to December 11, 1906	48.00
By expenses of Secretary to October 19, 1906	63.55
By amount paid J. Edward Richardson Co., printing	5.50
By amount paid Pearre E. Crowl Co., printing	50.35
By expenses of Treasurer from December 11, 1906, to February 11, 1907	46.00
By expenses of Secretary to March 16, 1907	88.00
By amount paid Sun Job Printing Company, printing annual reports, etc	406.76
By expenses of President, April 9, 1907	8.00
By expenses of Secretary to April 5, 1907	57.28
By amount paid Sun Job Printing Company, printing	9.65
By expenses of Secretary to June 14, 1907	21.00
By expenses of Treasurer from March 11, 1907, to July 1, 1907	57.25
Total Disbursements	$1,975.75
Total Receipts	$3,071.83
Total Disbursements	1,975.75
Balance in Treasurer's hands July 3, 1907	$1,096.08

Respectfully submitted,

FRANK G. TURNER,
Treasurer.

The books of the Treasurer have been examined and found to be correct; vouchers for disbursements exhibited and balances in bank verified.

CLAYTON PURNELL,
WALTER I. DAWKINS,

Auditing Committee.

BALTIMORE, July 3, 1907.

On motion the Treasurer's report was received.

The President: We will now hear the report of Executive Council.

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REPORT OF EXECUTIVE COUNCIL.

On behalf of the Executive Council I desire to state that the council, during the preceding year, have had three meetings, October 15, 1906, March 27, 1907, and May 29, 1907. They have directed the publication of the Annual Report for 1906, and it was published by the Secretary under their supervision. Arrangements were made for the annual meeting of 1907 and a Committee on Arrangements, consisting of Frank G. Turner, J. H. Covington and James U. Dennis, was appointed. The reports of the Committee on Judicial Administration and Legal Reform and the Committee on Grievances were published and mailed to each member in advance of this meeting.

The President was authorized to appoint a committee to urge the passage by the legislature of 1908 of the act to revise the corporation laws of this State, prepared by Arthur George Brown, George R. Willis, S. A. Williams, with J. C. France as Secretary, that being the committee named under the act of 1902, chapter 446. In pursuance of that authority, the President named as the committee, De Warren H. Reynolds, Chairman, of Cumberland; Glenn H. Worthington, of Frederick; J. Augustine Mason, of Hagerstown; J. Edwin Webster, of Bel Air; Hope H. Barroll, of Chestertown; and Edwin H. Brown, Jr., and J. Frank Harper, of Centreville.

The President was also authorized to appoint a committee of five to consider and report on the advisability of adopting in this State the Torrens Land System, and he appointed on that committee Moses R. Walter, Chairman; Morris A. Soper, W. Burns Trundle, Redmond C. Stewart and George Weems Williams, all of Baltimore City.

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The council also recommends that the title of the Committee on Judicial Administration and Legal Reform, be changed to the Committee on Laws.

The resignations of Thomas S. Latimer, Charles F. Harley and Charles G. Cromwell were accepted.

Under the authority of the constitution and by-laws, and according to the restrictions therein contained in reference to applications, the council elected to membership in the Association those persons who were named in the Report of the Committee on Admissions presented to the Association this morning as having been elected.

JAMES U. DENNIS,
Secretary.

John P. Poe, of Baltimore City: I move the report be received and that the actions of the Council as reported be ratified.

The motion was adopted.

The President: Next in order is the report of the Committee on Nominations.

Henry J. Broening, of Baltimore City: I move that the report of that committee be deferred.

The motion was adopted.

The President: Having finished the regular order of business, a motion to take recess until three o'clock will now be in order.

A motion to that effect was adopted.

AFTERNOON SESSION.

JULY 3, 1907.

The President: The first business in order this afternoon is the reading of a paper by William S. Bryan, Jr., Attorney-General of Maryland, entitled, "Shall We Have a New Constitution?" I have now great pleasure in introducing to you William S. Bryan, Jr.

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SHALL WE HAVE A NEW CONSTITUTION?

By William S. Bryan, Jr., of Baltimore City.

It will probably be remembered by some of the older members of this body that, during the term of General Harrison as President of the United States, there was a controversy between this country and Chili, growing out of a very brutal assault on some of our sailors by the mob in Lima or some other seaport of Chili.

Our Government made a demand on the Chilean authorities for an apology and an indemnity for the injured seamen. There was some delay in replying to our demands, and President Harrison sent a very warlike message to Congress. After that message had been read in the House of Representatives, it was learned that a reply from the government of Chili had been received by the State Department agreeing to comply with all of our demands. It is but just to add that this reply had not been translated and submitted to the President before he transmitted his message to Congress.

After the facts became known, and it was apparent that it had not been necessary for the President to exert so much energy, Representative Allen, of Mississippi, said that the incident reminded him of an occurrence in Mississippi. An old darkey was raking hay when a slight rain storm occurred; and he immediately started on a dead run to leave his work in the field. The overseer asked him why he ran so hard; he replied that he was afraid that it might stop raining before he got to the barn.

In reading this paper at this time I somewhat remind myself of that ancient and prudent African. If I am not prompt in giving the reasons why there should be no constitutional

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convention, it will be well-nigh unanimously agreed not to have one, before my objections to doing so are heard.

At the banquet of the Baltimore City Bar Association last fall, in responding to a call from the president of that body, I, with what the late John K. Cowen used to call, when describing after-dinner speakers, an amiable desire to dull the edge of indigestion, gave some of the reasons why it seemed to me to be inexpedient for our people to vote for calling a constitutional convention this fall.

I also had an interview in the *Baltimore Sun* last November opposing a convention and then our worthy president was kind enough to invite me to read this paper. At that time it looked as if the calling of a constitutional convention would be a practical public question next fall, and, as I have always believed that the bar ought to be one of the conservative forces of the community, and as I thought that calling a convention would be an unwise and dangerous thing, I very gladly accepted the invitation.

Fortunately for the State, but unfortunately for this paper, since I accepted that invitation it seems as if almost every political force in the community had declared against calling a convention. Attorney-General Bonaparte declared in substance that any one who desired such a convention was little better than the devil, and almost as bad as a regular or habitual Democrat. The *Baltimore American* also opposed a convention. And then Mr. Lloyd Wilkinson published a strong editorial against calling the convention in the *Maryland Democrat,* and the Hon. John P. Poe, who is in the inner councils of the Democratic organization, came out in a very able article against the expediency of calling such a convention. While we have not yet heard from the Prohibition Party or the Appeal Tax Court of Baltimore, there is no reason for believing that either of these respectable and select organizations favors a convention. I am, therefore, in the unenviable position of maintaining a proposition which no one seriously controverts. I am in fact somewhat like the

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man who elaborately defended the accuracy of the multiplication table.

The constitution is the fundamental law of the State. It is intended to be permanent in its nature, and it should not be changed lightly, or except for very grave and controlling reasons. Every constitutional convention is in the nature of a bloodless revolution, and holding it necessarily disturbs and unsettles business and deters capital, which is proverbially timid, from embarking in new enterprises, until it can learn what changes will be made in the fabric of our government.

A constitutional convention in framing a new constitution can, if it is so minded, abrogate and destroy all the safeguards and guarantees for the protection of the life, property and liberty of the citizen which are secured by our present State constitution, except, of course, such as may also be secured by the Federal Constitution.

It is also, to say the least, very doubtful whether or not a constitutional convention cannot promulgate its work without submitting it to the vote of the people. The Maryland constitution of 1776 was simply promulgated by the convention without submission to the people. The present constitution of Virginia is a recent and familiar exercise of the same power.

It would seem, on principles, to be clear that if a constitutional convention proclaims a new constitution and that constitution is accepted and submitted to by the existing State government, in the executive, legislative and judicial branches, it becomes, *de facto,* the constitution of the State, and that a revolution is worked. Who is there who can question it? The Federal Government has only power to see that "A republican form of government" is preserved.

It may be interesting and instructive to note that Jamieson in his work on Constitutional Conventions (Sec. 487) states that there have been 157 State constitutional conventions, and that of these 113 have submitted the fruit of their labors

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to the people and that forty-four have not done so, but have simply proclaimed the new constitution.

This learned author contends that, as the people are the source of all power, the proposed new constitution *should* be submitted to the popular vote, but he holds that a new constitution is binding without submission to the popular vote, if it is acquiesced in by the State government after its promulgation. (Jamieson on Constitutional Conventions, Sec. 520 b.)

If a constitutional convention is called, no man can tell what its personnel will be; no man can tell which political party will control it, or what wing of a political party will control it. The convention may be under the control of the conservative elements in the State, or it may be under the control of an extreme and radical element.

Under these circumstances it is submitted that it is the part of wisdom to refrain from calling a convention. I have heard it said, when the dangers of calling a constitutional convention were stated, that we ought to be willing to trust the people. To this it may be answered that it is not so much a question of trusting the people as it is of trusting some obscure and narrow-minded politicians who the chances of public affairs may place in position to work some greater mischief than they have the intelligence to understand.

And apart from this, I, for one, am frankly unwilling to place my constitutional rights and immunities in the keeping of any man or set of men. No one has much need of the constitution so long as he is one of the majority; the protection of all constitutional guarantees, from Magna Charta down, has been of value to the minority. It is as to those matters where one differs from those in power that he enjoys the blessings of

> "That ancient right unnoticed
> As the breath we draw,
> The leave to live by no man's leave
> Underneath the Law."

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I think that the constitution under which we have lived since 1867 is a good working constitution. There are undoubtedly changes which I would like to see made in it; but it is better to make these changes gradually, one by one, after deliberation and discussion, and after the popular approval has been obtained on each separate change.

Many thoughtful persons believe that one of the chief excellences of the British system of laws, and of political liberty, upon which our institutions are founded, is that it is a growth, and not a creation struck off at one time by a single enactment.

An old English poet said truly, "That no man works both hastily and well," and such changes as are desirable in the present constitution will be better devised and more maturely considered if made by amending that instrument, rather than if introducced in a new constitution in the hurry and confusion which will be inevitably connected with the work of a constitutional convention.

Many of the changes in our present constitution which I would personally approve are matters in regard to which I am not at all sure that a constitutional convention would adopt my views, and in regard to which it is by no means clear that the majority of the voters of the State, or even a majority of this body, would agree with me.

For example, I personally think that, as the cost of living has been very largely increased since 1867 it would be just to increase very substantially the salaries paid to judges, clerks of courts, registers of wills, and State's attorneys.

At the present time no man can properly maintain the position of governor of Maryland on the constitutional salary. When Grover Cleveland was elected President of the United States it was stated in the press that his tax assessment was $5,000 or $6,000. If this statement was correct, he could not at that time, if a citizen of this State, have afforded to be governor of Maryland.

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The salary of governor should be sufficient to enable any able man whom the people might desire to elect, whether rich or poor, to accept the place and to maintain the office properly.

I would also like to see the fee system of paying sheriffs and clerks of courts and registers of wills abolished and to see reasonable living salaries substituted in its place. There is always a possibility of abuse under the fee system, and there is also more or less temptation to extortion.

I would also personally like to see the XVth Article of the Declaration of Rights so amended as to give to the general assembly more discretion than it now has in regard to the taxation of securities and other intangible property.

I would also prefer to see an independent Court of Appeals of five or seven members elected from the whole State and entirely relieved of circuit court duty. I think that justice would require us to proceed in this matter, however, as was done in England when the Court of Exchequer was abolished, so that no judge in commission when the change was made should be legislated out of office.

Personally, I would also be glad to see the first section of the first article of the constitution—the section regulating the right of suffrage—amended so as to conform to what was known as the Worthington Amendment, suggested in 1904 by Mr. Glenn H. Worthington, of Frederick. This, however, is a political matter about which the members of this association would naturally differ, and which it is not advisable to discuss at any length on an occasion like this.

And it goes without saying, that Baltimore City should have a more adequate representation in the general assembly. "No taxation without representation" is a very old American doctrine.

In addition to the uncertainty as to what the action of a constitutional convention would be in making changes in our fundamental law, and whether those changes would be desirable or not, and in addition to all the turmoil, excitement

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and expense which calling a constitutional convention would certainly cause, there is a reason against calling such a convention which will appeal very strongly, I believe, to this association. We have at present an able, upright and acceptable judiciary in whose impartiality and capacity the people have confidence. No one could be certain that our whole bench would not be legislated out of office by a constitutional convention. This would be a very great hardship on individual judges, who have by their services on the bench gotten out of touch with the business world, and who would, in many instances, find it well-nigh impossible to resume their old positions at the bar. It would also be a distinct injury to the public. With each year's experience until his faculties become impaired, a good judge improves and gives better and more useful service to the public.

Besides, it is a wise and enlightened public policy to make the bench as attractive as possible to the very cream of the bar; and one very excellent way to accomplish this end, is to make the tenure of the office practically during good behavior "*quamdiu sese bene gesserint,*" as was said in the commissions of the old English judges.

Other reasons might be urged against a constitutional convention, but I hope that these will suffice—especially as there seems now no disposition to urge the calling of one.

When the president of this association did me the honor to ask me, at a time when it was not certain what view public sentiment would hold on the subject of calling a constitutional convention, to prepare this paper, I thought it a wise thing for him to invite a discussion of the question before this association, and to thus invite the State bar to take a position on the subject, for I have always conceived that one of the duties which the legal profession owed the public was to be one of the great conservative forces of the community, and to set the influence of its trained intelligence against the alteration or abandonment of any of the inherited guaranties of the liberties and well-being of our people.

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Harry E. Mann, of Baltimore City: On behalf of the Committee on Admissions I would like to offer a supplementary report, proposing for membership Harrison W. Vickers, Jr., of Chestertown, and L. Paul Ewell, of Pocomoke City.

The President: You have heard the report of the Committee. What is the pleasure of the Association in reference to it.

Alexander H. Robertson, of Baltimore City: I move that the report be accepted and that the Secretary cast the ballot of this Association for the gentlemen named.

The motion was adopted and the Secretary announced that he had cast the ballot as directed.

The President: Discussion on Mr. Bryan's paper is now in order.

John Phelps, of Baltimore City: I move that it is the sentiment of this meeting, on the suggestion of the learned Attorney-General, that there be no constitutional convention called.

Wm. S. Bryan, Jr., of Baltimore City: I think that is a bad precedent.

We can discuss things but I do not think we ought to take any position on a political question one way or the other.

The President: The motion has been made; is there any second?

Several members seconded the motion.

Joshua W. Miles, of Princess Anne: I make the point of order that the motion is out of order.

The President: The Chair rules it is in order.

B. Harris Camalier, of Leonardtown: I move it be laid on the table.

The motion was adopted, and the motion of Mr. Phelps was accordingly laid upon the table.

The President: The report of the Committee on Legal Education is in order.

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Benjamin A. Richmond, of Cumberland: The Committee on Legal Education has very little to report, and what little it has is of a very indifferent order; however, they have authorized me to make the following report:

REPORT OF THE COMMITTEE ON LEGAL EDUCATION.

To the President and Members of the Maryland State Bar Association:

The present status of Legal Education in Maryland can be best understood and appreciated by a simple comparison between what were regarded as the necessary qualifications of an attorney for admission to the bar fifteen or twenty years ago and the qualifications required now. The older members of the bar can well remember the time when the only preparation for this important profession deemed at all essential, was a desultory reading of fifteen or twenty law text books, in or out of a law office, and with or without instructions and guidance from a legal preceptor.

Equipped with these preliminary qualifications, the applicant for professional honors presented himself to some old, easy-going, kind-hearted judge, usually in the afternoon when court had adjourned, and after the judge had enjoyed a hearty dinner and was at peace with all the world and stimulated by neither energy nor inclination to be very inquisitive about legal problems which might prove a stumbling block to the hopeful aspirant. Having satisfied himself by ten or a dozen questions that the would-be lawyer had read Blackstone and Kent and Chitty and Story, and knew a deed was not a will; that a horse was not real estate, and that a house was, and that he could define the Rule in Shelly's Case, and could *not* define an executory device, the kindly judge usually gave the applicant some fatherly advice and then sent him to the clerk to be sworn in.

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This was followed by the statutory provision for an examination by a committee of the bar in open court. It must be confessed that this was some improvement on the old plan, but only some. It was better to about the extent illustrated by the prisoner who, when asked by an Allegany County judge what he had to say before sentence, replied that he wanted to be sent to the penitentiary and not to the House of *Delegates.*

The applicant by this method, it is true, was obliged to come out into the open, and show what he knew or did not know about the law. But the members of the committee usually came to the examination without previous thought, co-operation, or plan, and depended upon the recollections of the moment for such questions of a general and simple nature as "slippery memory" could suggest. That they generally received what they regarded as satisfactory answers to such questions, goes without saying. The only one the Chairman of your Committee ever remembers to have heard answered unsatisfactorily to the examiners was the question, "What is a remainder?" to which the applicant replied, "A remainder is what is left of a man's estate after his debts are paid and his lawyers are done with him." The applicant was rejected unanimously.

The foregoing loose and unsystematic methods were those which prevailed in Maryland down to the year 1898. With a few prominent exceptions, such as New York, Massachusetts, Pennsylvania and Michigan, the practice in the other States was little better. In some of them any man, a resident of the State and of good moral character, could be admitted to practice law in nisi prius courts without any legal education or examination whatsoever. Then came the era of bar associations, first in the large cities, then in progressive counties, and finally the State bar associations. The work of these associations soon led to an investigation of the qualifications of their members, and to a desire and demand for some systematic, thorough and comprehensive test of the

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legal education and competency of those desiring to become members of the bar. The legislation in the several States, beginning twenty years or more ago in some of them, was the result of this demand; legislation providing for a thorough and scientific scrutiny of the claims and capabilities of those who aspired to the great profession of the law. The same demand fostered the establishment of more law schools and stimulated those already established to better methods and greater excellence.

Today all the States of the Union east of the Dakotas, we believe, except Rhode Island, Florida, Louisiana, Arkansas, Missouri and Indiana, have a well devised plan or system for testing the legal qualifications of applicants in a broad and thorough manner, by a written examination in all the leading branches of the law. Rhode Island, Louisiana and Missouri, although not requiring the test of a formal written examination, do require the examining committee to thoroughly investigate the attainments of the candidates in an ample list of specified subjects. Florida, Arkansas and Indiana have not kept step with their sisters, but still adhere to the old system, or rather lack of system.

The machinery provided for conducting these examinations differs widely among the several States. In Virginia the questions covering the prescribed subjects are prepared by the judges of the Supreme Court of Appeals and the examinations are held and the results certified by them. In other States the examining board is composed partly of judges and partly of attorneys, while in most of them the board is composed entirely of lawyers. In 1898 Maryland established an examining board of three lawyers to be appointed by the Court of Appeals and authorized the court to make rules for the examination. These rules required an examination in fifteen subjects deemed essential to the genius of the Maryland law. Massachusetts prescribes twenty-three, while Louisiana names nineteen subjects or law writ-

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ings, beginning with the Institutes of Justinian with which the successful applicant must be fairly conversant.

In the ratings under the written examinations the States also differ. In many the percentage of correct answers justifying admission is prescribed by statute or rule of court. Some fix it at eighty per cent. while others are satisfied with fifty. The Maryland examiners have adopted a percentage of two-thirds. They are also authorized to take into consideration the general intelligence and preliminary educational qualifications of the applicant as manifested by his papers in such matters as expression, grammar, spelling and the like, and may deduct from his rating for defects in these particulars or add points for excellence. It thus occasionally happens that an applicant who makes the prescribed mark in his legal examination, is rejected because of a lack of general scholarship. Thus the young man who spelled horse "hoss" and wrote "airs and assines" for heirs and assigns (an actual case), is said to have fared badly with the examiners without regard to his legal attainments. Even such authorities as Mr. Carnegie and President Roosevelt could not save him.

In the mere matter therefore of the method and machinery for providing a fairly satisfactory test of an applicant's fitness to enter the profession, Maryland may be said to be well in line with her sister States of the East and North, and far in advance of some of those of the South and far West. A firm and impartial application of this method, coupled with the ever increasing efficiency and industry of the law schools of Baltimore City, from which a large majority of all successful applicants, are now annually graduated, has necessarily resulted in impressing upon all those who are to take the examination the essential importance of a thorough preparation in all the principal branches of the law, and it may be safely assumed that the cases are now rare, when any one not at least fairly equipped for his legal duties, can succeed in entering the bar.

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It may not be amiss in this connection to quote with the permission of Mr. John Hinkley, Secretary of the American Bar Association, a portion of a letter recently received by him from Mr. Henry Wade Rogers, Dean of the Law Department of Yale University, to whom Mr. Hinkley had sent a set of the question papers used by the Maryland Law Examiners at their recent June session. Mr. Rogers says, "I acknowledge receipt of set of papers used by the Maryland State Board of Law Examiners, which I have looked over with interest. I am not only greatly obliged to you for forwarding these papers to me, but I am exceedingly pleased at the thoroughness which your State Board is exacting in the examinations. It is very creditable to Maryland."

We desire to add a single suggestion which we think might be favorably entertained by the law schools. It would seem that the present scope of their instruction is confined too strictly to the theory, and to the abstract principles of the law and that too little attention is paid to inculcating some knowledge of practice. It is said that the law examiners have frequently encountered cases where bright young men very thoroughly grounded in the general principles of the law were utterly unable to prepare even a passable declaration on a promissory note, and that L. L. B's. have been known to answer that a bill of exceptions was a proceeding in equity. This it seems to your Committee is not as it should be, and that the students should be enjoined to avail themselves more frequently of the advantages of trials in moot courts, and of the many other methods of instruction in mere practice which could be suggested. A system of "Brief Making" in cases stated, where the students are required to appear for the appellant, and prepare the appeal, and the written arguments, has been applied in a number of law universities and schools with much success. But whatever the methods adopted to familiarize the young lawyer with this most essential part of his profession, it would seem that the mere scholastic knowledge of legal doctrines and

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principles is not enough, but that we have now reached a point in legal education, when the lawyer who comes to the bar should, to a certain extent at least, be prepared to practically apply his learning; that the young legal warrior should not be left to depend alone upon the excellence or splendor of his arms, but that he should also be taught how to shoot, and if possible, how to reach the target.

Respectfully submitted,

BENJ. A. RICHMOND,
Chairman.

Walter I. Dawkins, of Baltimore City: I move the report be received.

The motion was adopted.

The President: The report of the Committee on Grievances is now in order. I do not see the chairman of the Committee here, but there is a printed report from that Committee on the Secretary's desk.

Walter I. Dawkins, of Baltimore City: I move the report be deferred for the present.

The motion was adopted.

The President: Next is the report of the Committee on Legal Biography, J. Augustine Mason, of Hagerstown, Chairman.

REPORT OF THE COMMITTEE ON LEGAL BIOGRAPHY.

The report of the Committee on Legal Biography is but a few words. The Committee went over the list of members of the Association and it found that death had called from its ranks a very considerable number.

It has also found that biographical sketches have not been prepared of some who died prior to the time of the

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last meeting. The Committee has prepared sketches of all the deceased members and we understand there is now a complete biographical record. The departed members of whom biographical sketches have been prepared and are now submitted are as follows: Thomas S. Baer, W. Viers Bouic, Samuel Cox, Jr., E. J. D. Cross, William H. Deweese, Richard T. Edmonds, Edward C. Eichelberger, Richard D. Hynson, I. Thomas Jones, James J. McHenry, William S. McMaster, William R. Martin and Joseph C. Mullin.

The Committee in the discharge of its duties has had under consideration Article XIII of the Constitution which provides for "memorials of the lives and characters of the deceased members of the Maryland Bar." The Committee has presumed to recommend that the article be changed to read thus: "The Committee on Legal Biography shall provide for the preservation, among the archives of the Association, of suitable written or printed memorials of the lives and characters of the deceased members of this Association."

THOMAS S. BAER.

Thomas S. Baer was born in Baltimore City on the 17th of March, 1843. He was a son of the Rev. John Baer, a member of the Baltimore Conference of the Methodist Episcopal Church.

After completing his education, all of which he obtained in the public schools of his native city, he studied law in the office of the late William S. Waters and was admitted to the bar on the 18th of May, 1865. Shortly after his admission he formed a law partnership with the late John T. McGlone which continued a few years. From 1872 to 1875 he practiced law in connection with Mr. Isaac McCurley, the firm being Baer & McCurley.

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He married Miss Elizabeth S. Beacham, a daughter of the late John S. Beacham. She died on the 26th of December, 1891. There were no children born of this marriage.

Mr. Baer was a member of the House of Delegates in the session of 1894; Master in Chancery from 1894 to 1903; School Commissioner from March, 1900, until his elevation to the Supreme Bench in November, 1903. From 1893 until his death, on July 18, 1906, he was a member of the Faculty of the University of Maryland where he lectured on the Law of Real Property.

While Mr. Baer was not considered a conspicuous trial lawyer he tried his cases well. He was a general practitioner, no specialist. He knew the law and the reason of the law. Attorney-General Bryan said of him, "He was a sound, accurate and discriminating lawyer, acquainted with the decisions and having a firm grasp on the underlying principles of jurisprudence. He not only knew what had been decided, but he understood why it had been decided."

He was a master in chancery in more ways than one. His conception of equity jurisprudence as modified by Maryland statutes and decisions was singularly clear.

In his equipment as a real estate lawyer he united the experience of the practical conveyancer with a thorough knowledge of the fundamental principles of that branch of the law.

With him discrimination was a genius; he grasped quickly and without effort the questions at issue in the case before him and the cases upon which he relied.

He was always accessible, ever apparently restful, a most genial companion. If you had a story to tell he enjoyed listening to it, and that story reminded of another that he enjoyed telling. No one who enjoyed his friendship ever felt that he remained too long in his company or occupied too much of his time.

In politics he was a Democrat, and while it could not be said that he was regular in his irregularity, neither could it

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be said that he never scratched a ticket. He voted for Edward Duffy in the new judge election and Judge Duffy was proud of that vote.

Too unostentatious and unobtrusive to be what is termed a pillar in the church, yet he was a regular attendant on public worship, and as Mr. Joseph C. France said, "There was about him no sham, no pretense, and the outer word always corresponded with the inner thought."

In his last illness, which was intensely painful, and so pathetic because so hopeless, he bore his sufferings with wonderful patience, fortitude and resignation.

Chief Judge Harlan said of him: "Judge Baer belonged to Baltimore in a peculiar degree. He may be said to have been a representative of her citizenship and her institutions. Here he was born. Here he was educated. Here he lived; here he practiced his profession; here he won his honors, and here he laid down his life. It was a quiet life, for Judge Baer was a modest and unostentatious man, but it was a life that was actuated by high principles and the desire of service, and it was a life of great usefulness.

"He was not a seeker after office or place, but when called into the public service, whether as member of the Public School Board, as Delegates to the General Assembly, as Master in Chancery or as Judge of the Supreme Bench, he brought to the fulfillment of his duties such native ability, such broadness of mind, such soundness of judgment, such preparation and knowledge, such honesty of purpose, such fidelity of performance, as to render him a singularly valuable public servant in each and every place he filled.

"At the bar, Judge Baer was known as a sound lawyer, a safe counsellor and an able advocate. Indeed, it was in recognition of his well-merited reputation for professional learning, sterling integrity, discriminating judgment, and such personal characteristics as evenness of temper, calmness of speech and courtesy of manner, that he was selected for judicial preferment.

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"His course upon the bench amply justified the popular choice. He recognized to the full the importance of the judicial office, and he always maintained its dignity; he displayed in the exercise of its difficult and ofttimes delicate functions such wisdom, learning, impartiality, patience and courtesy, as to speedily gain not only the full confidence, but the affectionate regard of the entire bar. No counsel or client ever had reason to go into his court with any other feeling than that his cause would have a full and patient hearing, be given a careful and intelligent consideration, and be decided solely according to the justice and law of the case.

"Judge Baer wrote with vigor and force, and his lectures upon the Law of Real Property delivered to the law students of the Maryland University, where he occupied a professor's chair for fourteen years, were models of clearness and reflected his accurate and comprehensive knowledge of the subject."

Truly a strong sweet soul has passed to his well merited reward, cut down in the midst of his usefulness, those of us who knew him well, will affectionately cherish his memory.

WILLIAM V. BOUIC.

William Veirs Bouic was born near Rockville, Maryland, on July 20, 1846, and died in that town on October 12, 1906.

He was the only son of Judge William Veirs Bouic, who, for fifteen years was one of the judges of the Sixth Judicial Circuit of this State.

Mr. Bouic was educated at the Rockville Academy and at Columbian College, in Washington, D. C., graduating from the latter institution in 1868 with the degree of A. B., and three years later receiving the degree of A. M. from his Alma Mater. Immediately upon his return from college to his home at Rockville, he began the study of the law under the instruction of his father; and, in 1870, was duly admitted

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to the bar, and, in the same year, formed a partnership with the late Thomas Anderson, who had been a partner of Judge Bouic until the latter went upon the bench. This partnership was a singularly fortunate one as the partners were so essentially different in temperament and mental characteristics, and yet so united in professional ideals, as to make a working force of unusual strength and effectiveness. From the beginning, the business of this firm was large, important and lucrative, and it was recognized as one of the leaders of the Western Maryland bar. They were the local attorneys for the B. & O. R. R. until Mr. Anderson's death in 1900, and Mr. Bouic remained the legal representative of the company until his death.

Mr. Bouic was fond of politics, was an ardent Democrat and, for many years, was a constant and effective speaker in every political campaign. In 1892 he was a presidential elector on the Democratic ticket, and was president of the convention which nominated Judge McSherry for Chief Judge of the Sixth Judicial Circuit. In 1897 he was elected to the State Senate, being the only Democrat in that year elected in his county to the legislature. In local matters he was prominent, having been, for seventeen years, the mayor of his town, and connected with many of the social and business enterprises of the people among whom he lived. He was one of the original members of the Maryland State Bar Association, of which he was one of the vice-presidents; and in the success of this association he took a deep and continuing interest.

In the autumn of 1900, The Farmers Banking and Trust Company, a successful and growing financial institution, was organized largely by his initiative. He became its first president and remained in that position until his death.

In his professional life Mr. Bouic was careful, painstaking and methodical. His ideal of professional and personal integrity was lofty and all his dealings with his clients, his associates and the courts were measured by the highest

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standard of honor. His attainments in legal knowledge were high. He was a hard and careful student, an indefatigable worker, and a systematic business man. In his relations to his clients he was fair, conservative and unwearied, and had the faculty of not only earning their esteem by his arduous and generally successful labors for them, but also of attaching them to him by the strongest bonds of personal affection. He was tenacious in the assertion of the rights of those whom he served, somewhat impatient of contradiction, impetuous in speech and insistent in the statement of his views, yet he never lost the respect and admiration of his opponents and maintained most cordial relations with his professional brethren and the confidence and esteem of the court.

Mr. Bouic was of a retiring and domestic disposition and found his pleasures in his home rather than in larger social intercourse. If one trait can be named as that which most distinguished his useful and successful life, it was the absolute fulfillment of every personal and professional obligation.

Mr. Bouic, in 1870, married Miss Alice A. Almoney, who, with four sons and one daughter survive him. Of his sons, three of them are lawyers; one located in Arkansas and the other two, young members of the bar of this State, practicing in Rockville.

SAMUEL COX, JR.

Samuel Cox, Jr., was born in Charles County, Maryland, in March, 1847. He was the son of John R. Robertson and the adopted son of Col. Samuel Cox, his uncle, who was one of the most prominent citizens of that section and from whom he took his name by act of assembly. He was educated at Charlotte Hall, and later studied law in the office of the late Judge Frederic Stone, with whom he continued for a number of years. Mr. Cox was elected to the general assembly of Maryland in the year 1877, as a Democrat, and

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served in the session of 1878. His course in that body was marked by great independence, and he was ever active in promoting legislation for the betterment of his county and State. Mr. Cox served for the term of four years as cashier of customs under the first administration of President Cleveland; he was at all times active in the local affairs of his county and in 1885 was elected to the office of county commissioner. For a number of years Mr. Cox was not actively engaged in the practice of his profession, devoting himself to the care of his plantation which was one of the largest and finest in that section. He was deeply interested in the agricultural development of Southern Maryland and was a frequent contributor of valuable articles along this line.

Mr. Cox was twice married and leaves surviving him a widow, two daughters and one son, Capt. Walter Cox of the United States Army. Mr. Cox was of that type of gentleman which has long made Southern Maryland famous for its hospitality, courtesy and courage, and, while a man of strong opinions, was ever open to conviction.

He died at his home, Rich Hill, after a long and painful illness in May, 1906.

EBEN J. D. CROSS.

Eben J. D. Cross, the second son of Richard and Mary Jackson Dickey Cross, was born in Baltimore on December 28, 1838. His father's family were Scotch-Irish, his grandfather, John Cross, having come from the North of Ireland in 1740 to Cecil County, where he opened a school; his mother's family were Scotch, and settled in Philadelphia some time before the Revolutionary War. The vigorous intellect and deep religious feeling peculiar to the Scotch strain were strongly asserted in him. He was during the last twenty years of his life an elder in Brown Memorial Presbyterian Church.

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In his early youth he attended an academy founded by his family. It was during this period that began the development of that side of his character which was undoubtedly the most conspicuous of all, namely, his love of culture and seemingly unlimited acquaintance with literature. As a mere boy he read everything in sight, and this habit clung to him during the rest of his life. The late John H. B. Latrobe once said, "It is useless to ask Cross if he has read any certain book, for he has read them all." To men by nature less gifted in one respect than was "Judge" Cross, such omnivorous reading might be in part unprofitable. His memory, however, was remarkable—"a memory like Macaulay's" said the late John K. Cowen, in speaking of it. He seemed never to have forgotten any book he had ever read, as regarded either general outline or minute detail. And his faculty for ready, apt and exact quotation was striking.

He entered Princeton in 1856 and was graduated with honors in 1860. Though a diligent student, distinguishing himself, as he did in mathematics, he yet took time from the close application to his books, to cultivate the human side by intimate contact with those of his college-mates less studiously inclined. He is well remembered by his classmates as somewhat of a leader in innocent and wholesome college pranks, and for a spirit of *bonhommie,* which, though dignified, in after life, by the seriousness that comes with man's estate, never lost its lustre or its genuine spontaneity. His love for literature led him to take an active interest in Whig Hall, one of the literary and debating societies of Princeton.

After studying law in the office of Brown and Brune, he came to the bar in 1863, and took offices with Lewis Fisher in the old Taney residence on Lexington street. At first he met with the usual experience of great time for study, which he profitably employed in the reading of law books, thus acquiring a foundation in the law which later proved to be of immense value. During this period he also collaborated with Lewis Fisher and Lewis Mayer in the preparation of the

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Code of 1878. When the late John K. Cowen came to Baltimore to take charge of the legal affairs of the Baltimore and Ohio Railroad, the two formed a partnership; and this relation, founded in the bond of Princeton fellowship and cemented by affinities of temperament and mentality, continued up to Mr. Cowen's death in 1904.

A legal instinct absorbed, so to speak, from a broad and intelligent study of the law, a knowledge of affairs and of men acquired by wide reading and close observation, a fertile and comprehensive but well-ordered imagination that could forecast contingencies in new problems, a memory for details and an accurate sense of their relative importance, contributed to the equipment which pre-eminently fitted him for the rôle of the counsellor, and one to whom could be safely entrusted the preparation of legal documents relating to important interests; whilst his diplomacy and adroitness endowed him with ability as a negotiator. He was resourceful at the trial table and thoroughly versed in points of practice; was especially adept at conducting equity litigation, and possessed a power of forceful and comprehensive presentation.

His ambitions were for others rather than for himself. The success or achievements of his friends pleased him far more than did his own, and his interest in the progress of the younger members of the bar was a delight to himself and a stimulus to them. Though associated, through his professional abilities, with many public and business affairs, his distaste or self-prominence did not permit him to be conspicuously identified with them. He was active in charitable work, but in the same unostentatious manner.

Of a retiring disposition, and known best to those nearest him, his cordiality, gracious manners and mental hospitality, nevertheless, made him always approachable to the stranger, and a most congenial companion to his friends. His captivating personality was supplemented by an unfailing spirit of mirth, a spirit so flexible that, in its manifestations, it ranged from the scintillations of wit to the absurdities of the

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grotesque. He was quick to catch the humor in any situation, if humor there existed, and gave expression to it in such a quaint and original fashion that it never failed to be effective, either as a means of forcible illustration or to whatever other good purpose it might be put. His sense of dignity, however, always confined the indulgence of this gift to what was appropriate to the occasion; and the gentleness of his nature never permitted it to take the form of ridicule.

His motives in all things were those which proceed from a sense of justice and a heart full of charity—those appertaining to the Christian gentleman. His acts of generosity, many in number and varied in form, are remembered best by the recipients, for his modesty shrunk from any publication of his good deeds. His affectionate disposition enlisted the love and loyalty of his friends, and his principles and conduct commanded the admiration of all who knew him.

The untiring industry and virile enthusiasm that characterized all his professional work were, in a measure, responsible for his first stroke of paralysis some five years before his death. A recovery from this enabled him soon to get back into harness and gratify his love for the law. But the hope entertained by his friends of a permanent recovery was short-lived. A second stroke disabled him from further active work, though he always cherished the hope of again returning to it, and a third resulted in his death on May 2, 1906.

He was twice married. His first wife was Miss Clara Brown, daughter of the late Chief Judge George William Brown. They had one child that died in infancy. His second wife was Miss Anne Dickey. She and two sons, Francis Ralston and Eben Jackson, survive him. His home life was ideally happy.

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WILLIAM H. DEWEESE.

William H. Deweese of Denton, Caroline County, Maryland, died at Laurel, Maryland, at the sanitarium of his brother, Dr. Cornelius Deweese, on Wednesday, February 6, 1907, after a lingering illness.

Mr. Deweese was born on a farm near Burrisville in Caroline County, where he spent his early boyhood. He attended the public schools near his home and then went to the Denton Academy. In 1888 he became a student at West Chester Normal School. After completing his course at West Chester he entered the Dickinson Law School, Carlisle, Pennsylvania, graduating therefrom in June, 1893.

In April of the same year he was admitted to the bar of Caroline County and began the practice of law there. In the fall following he was appointed counsel to the board of county commissioners, and in 1895 was nominated for State's attorney on the Democratic ticket and elected, enjoying the distinction of being the youngest attorney ever elected to that office in his county. Mr. Deweese was identified with the organization of some of Denton's most important enterprises, notably, the Peoples National Bank, the Law Building, the Citizens Light and Fuel Company. He was a leading spirit in the organization of the Caroline County Bank at Greensboro, of which he became president, remaining at its head until overtaken by ill health. Probably his greatest interest, however, outside of his profession was in agriculture.

In December, 1893, Mr. Deweese was married to Miss Natilla Powell Owens, daughter of the late Dr. Frederick J. Owens, of Harrington, Delaware. Five children were born of this union, three of whom—Wilfred, Mary and William H.—with their mother survive.

Mr. Deweese was a favorite pupil at Carlisle of the noted teacher and author, William Trickett, then and now dean of the Dickinson Law School. The close relations which were

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formed between them in other days were maintained throughout Mr. Deweese's career at the bar. His profession was an absorbing passion and the bar libraries of Baltimore and Philadelphia knew him almost as well as his own office. He was tireless in study and research, whether undertaken for clients or academic interest, and doubtless the overtaxed forces of nature insisted upon the penalty. Preferment of any kind aside from the law he never sought nor would accept.

EDWARD C. EICHELBERGER.

Edward Cary Eichelberger was born November 1, 1850, at "Angerona," Winchester, Va., and died January 2, 1906, at "Hilton," his residence in Walbrook, Baltimore City. He was the youngest son of Rev. Lewis Frederick Eichelberger, D. D., LL. D., a prominent minister of the Lutheran Church, and Penelope Lynn L. B. J. Hay Eichelberger, daughter of Judge John Hay of Glenmore, Charles County, Va., and Mary S. Maury, niece of Commodore Matthew F. Maury, United States Navy.

The death of his father, when he was only nine years old, threw the responsibility of his early training upon his mother; and the fidelity and care with which she performed this obligation was always recognized by Mr. Eichelberger, and was manifested by him in the affectionate solicitude for her every comfort, with which he surrounded her declining years.

Mrs. Eichelberger removed from Winchester to Baltimore at the close of the Civil War and Mr. Eichelberger at first began the study of medicine in the office of Prof. J. W. Dunbar, also taking the medical course at the University of Maryland. But having decided preference for the profession of law, he relinquished his medical studies after a year, and began the study of law in the office of Abraham Sharp,

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Esq., with such success that he was admitted to the Baltimore bar January 2, 1874, to the Maryland Court of Appeals May, 1876, and to the Supreme Court of the United States in 1881. Mr. Eichelberger's death occurred on the thirty-second anniversary of his admission to the bar. During the thirty-two years of his practice he demonstrated the wisdom of his choice of a profession. He won the respect and esteem of the bench and bar and of the community in which he lived. His practice constantly increased and at the time of his death was large and lucrative.

Many important interests were entrusted to him. He was a member of the Maryland State Bar Association and of the Bar Association of Baltimore City, in both of which he took a deep interest and did valuable work upon various committees.

By appointment of the Supreme Bench of Baltimore City, he served for a number of years as a member of the committee to examine candidates for admission to the bar, when such examinations were conducted in open court in the presence of the Supreme Bench.

Mr. Eichelberger was connected with a number of fraternal and social organizations, including the Ben Franklin Lodge of Masons, the American Mechanics, the Sons of the American Revolution and the Royal Arcanum. For two years he was the Grand Regent of the Supreme Council of the Royal Arcanum, and his indefatigable labors in behalf of this order are supposed to have greatly impaired his health.

In the development of Walbrook, a suburb of Baltimore City, where he lived the last twenty-five years of his life, he took great interest, being one of the first presidents of the Walbrook Improvement Association and foremost in every effort which had for its object the improvement of that neighborhood as well as the whole city of Baltimore.

Mr. Eichelberger was an active member of the Presbyterian Association of Baltimore and a member and communicant of the Walbrook Presbyterian Church. Its beautiful

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new building, the corner-stone of which was laid by him only a few months before his death, and while he was suffering with mortal disease, is conceded by the residents of that section to have been due to his persistent and unremitting energy.

Mr. Eichelberger was a careful, prudent, excellent lawyer and a good citizen, whose many good deeds will live after him. He had few enemies and many friends.

In 1879 Mr. Eichelberger married Julia H. Sanderson, daughter of Thomas Sanderson of "The Plains," Baltimore County. More than twenty years of their married life was spent at "Hilton," where his widow and five children still reside. He was devoted to his home and family, and dedicated his best efforts to the promotion of their welfare and happiness, no sacrifice in their behalf was too great for him to make. He was of a social and kindly nature and loved to have his friends and neighbors partake of his generous hospitality.

Only a day or so ago a friend said, "Mr. Eichelberger's public spirit, untiring energy, generous hospitality, and blameless home life are greatly missed by the people of Walbrook and all who knew him."

ROGER T. EDMONDS.

Roger Tryon Edmonds was born in Sharpsburg, Washington County, Maryland, May 2, 1873, and died at St. Luke's Hospital in the City of Baltimore, where he had gone for treatment, March 27, 1907. He was the son of Jacob R. and Etta (Hill) Edmonds. He grew to manhood in the village in which he was born. He was educated in the public schools of his native county and later took a course in the Millersville Normal School, preparatory to teaching. For a number of years he taught in the public schools of Washington County, and his spare hours and vacation months he de-

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voted to the study of law. He registered himself as a student with Abraham C. Strite and in August, 1897, he was regularly admitted to the bar and continued in active practice up to the time of his death. He married Miss Manie Funk in February, 1896, and his widow and three young children survive him.

Mr. Edmonds was essentially a self-made man. His early opportunities for fitting himself for his life's work were modest and limited, but he made the most of them, and to his credit it can truthfully be said that he had already attained a position of honorable prominence as a citizen and practicing lawyer in the community in which he lived. His care in the preparation of legal papers, his close attention to details, his systematic methods of work and his courteous and affable manner toward those with whom he came in contact soon won him friends and clients. His tastes inclined him toward corporation practice, and he became identified with many of the leading industries of Hagerstown formed in recent years. Had his vitality been equal to his energy and force of character, an eminent and successful career at the bar would certainly have been his.

Mr. Edmonds always took an active interest in the Republican politics of Washington County, but he never aspired to an elective office. At the time of his death he was holding the position of court auditor, to which he had been appointed by Judge M. L. Keedy, and he discharged his official duties to the entire satisfaction of the bench and bar.

His private life was exemplary. He was active in the work of Trinity Lutheran Church of Hagerstown. In his home life it may well be said that happiness reigned and contentment had its abiding-place. He was never so busy that he did not find time to entertain his friends in his comfortable home which he had built for himself in the suburbs of Hagerstown only a few years before his death. He seemed to have the happy faculty of making friends easily and holding them fast to him, despite the fact that he was never

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physically strong, many times greeting a caller with a smile and a cheery hand-shake, while feeling sick enough to be in his bed. His determination to succeed was his greatest support and he fought death as if he could master it as he had done many other obstacles in his life's pathway before, and it might be said of him that he died upon his feet, at his desk and at his work. Thus passed out a young life full of hope and promise of reward, and the regret of a large circle of friends followed him to his grave, regret that he could not have lived so that his labors might have borne their fruitage in due season.

RICHARD D. HYNSON.

Within the space of a few months the members of this association and particularly the members of the bars of the second judicial circuit have been called upon to mourn the loss of several of their most prominent members, both of the bench and the bar. They have had to note the dropping away from among them, in close sequence, not only of honored and distinguished men whose race in the course of human events was necessarily nearly run, but of those whose early and marked demonstration of unusual legal equipment had drawn more than local attention to the rich professional life that seemed to be before them.

The last one to fall out of the ranks of the bar in the prime of manhood was Richard Dunn Hynson, who died at Chestertown, Kent County, Maryland, on June 2, 1907, in the forty-second year of his age. He was born forty-two years ago the 10th of June. He was the son of the late Richard Hynson, one of Kent County's most prominent lawyers and influential citizens in his day. He was educated in the schools of his native town, and at Washington College, from which he graduated in 1883. After a course in law at the Maryland University, which he completed in 1886, he re-

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turned to Chestertown and began the practice of law with his father. Upon the death of the latter the son succeeded to a lucrative practice and an influential clientage and soon rose to a position of prominence in business, social life and politics that made him a power in the county and a strong factor in the party in the State. As a lawyer, Mr. Hynson was always diligent in the interests of his clients, and while he occupied a most conspicuous place among his brethren of the local bar, had he devoted his entire time and attention to the practice of his profession, he would have become one of the most astute lawyers in Maryland. His fine legal mind and his power of argument eminently fitted him to follow in the footsteps of his distinguished father, yet his big heart and his easy manner of life caused him to devote more time to the welfare of his friends and to seek the society of his fellows than to keep himself tied down to the responsibilities of a great law practice. Mr. Hynson's temperament and disposition were such as to make him congenial in all social circles, but it was the man in humble circumstances whose companionship he sought, and whose condition he strove unostentatiously to improve, and it was in those spheres in social life where the glitter of fashion and the formalities of society were absent that appealed to him most. Mr. Hynson was distinctively a man of all the people. Mr. Hynson was a man who never boasted of his acts of charity. He abhorred ostentation, and there are hundreds of people in his community and county who were the recipients of his assistance of whom the world never knew or ever will know.

He married Miss Emma A. Gilpin, daughter of Joseph E. Gilpin, of Kent County, Maryland, in 1892, who survives him with five daughters. He is also survived by an aged mother and two sisters.

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I. THOMAS JONES.

I. Thomas Jones was born in Anne Arundel County in the year 1838. He was the son of Edward Jones and Miss Croxall, a granddaughter of Robert Morris, the great financier of '76, whose wealth was so freely given to the cause of Independence. His father was a prominent agriculturist of West River, and his early life was spent in that neighborhood, where his associates were such families as the Chestons, Halls, Claytors, Brogdens and Stewarts. He received his primary education at the West River Classical Institute, then conducted by the Rev. R. G. Chaney, and afterwards entered Lafayette College, Pennsylvania, from which he graduated. Immediately after leaving college he began to read law in the office of Thomas S. Alexander, of Baltimore City, from whom he no doubt acquired that habit of always seeking the reason of the law invoked in each case, which was of such aid to him in his later years on the bench.

After being admitted to the bar he practiced for a few years in Baltimore and then removed to Ellicott City, but left there in 1870 and went to Frederick, where he remained only three years. He then returned to Ellicott City, building the home at Elkridge, in which he died.

In 1882 he was elected associate judge of the fifth judicial circuit, composed of the counties of Howard, Carroll and Anne Arundel, succeeding Judge Edward Hammond. At the expiration of his term in 1897 he was again re-elected for a term of fifteen years, and was elevated to the chief judgeship of this circuit in the year 1899 upon the death of the late Charles B. Roberts. He held this high office until his death, January 10, 1907.

It is as a judge that the bar of Maryland is familiar with I. Thomas Jones. Associated with and following such judicial giants as Miller and Hayden, his introduction to the bench was fraught with unusual dangers for so young a man, but he calmly and courageously performed the duties of his

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high and responsible office in such a simple manner, and displayed in his rulings such an unusual degree of common sense, that he gained not only the confidence and respect of everyone, but also the love of all who came in contact with him. An undaunted devotion to truth and an unquenchable desire to seek the right and equity of each cause, were his guides in every trial. What he lacked in legal learning and brilliancy, he made up by a close attention to the facts in each case. A man of few talents, yet those he posssessed were exceptionally well employed. He was a devotee of the works of Coke, Blackstone and Kent, whose commentaries have been of such inestimable aid to the bar of this country and England. It was his custom during vacation each year to re-read Coke on Littleton, and from this undefiled fountain head of the common law he drew those principles which guided him in the trial of every case. He was "A man of one book," and cared not for adjudicated cases except as they were useful in illustrating the application of some well-settled principle of law. It was this tenacity for principle and disregard for case law that resulted in Judge Jones, as a *nisi prius* judge, when erring to do so thoroughly, as, having decided upon the principle to be invoked he consistently adhered to it, and if the principle was wrong he erred from beginning to end.

His death, which occurred after but a short illness, was a shock to his many acquaintances throughout the State. His simple, genial, straightforward character had made him innumerable friends, and his earnest effort to do only what was right in each case gained him the respect of even those he decided against. He filled his high office with honor to himself, and credit to his State, and in his death the State lost the services of an able and valuable servant, and the bar a true friend. His judicial life showed that he possessed that rare power in the trial of a cause of forgetting for the time being, self, friends, interest and relationship, and to think of only doing what was right to another, a power which Field

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said, "Man can share only with the angels, and with Him who is above men and angels."

JAMES J. McHENRY.

James J. McHenry was born in March, 1825, in the State of Vermont. His parents soon after moved to Baltimore City, where his minority years were spent. His collegiate education was acquired at St. Mary's Seminary in Baltimore City, and among his classmates were the Hon. John Lee Carroll and Hon. A. Leo Knott. In 1845, at the age of twenty years, he went to Cumberland for the rest of his long life. About the beginning of the year 1852 he was called by Horace Resley, the newly elected county clerk, under the then new constitution, to be chief deputy, which position he held till his resignation in 1865.

In 1865 he was admitted to the bar of Allegany County, having studied under Josiah H. Gorom, Esq. The experience in the clerk's office was of great service to him in his practice, wherein he was not a forensic or expert trial lawyer, but safe, reliable and practical one. For the past thirty years he was associated in the practice with his son, James A. McHenry, a member of this association. He was an excellent citizen in the full meaning of the term; not only law-abiding, but a protector of the law at all times, willing and ready to aid in its execution. He was a gentleman in the widest sense of the word; sociable, courteous, polite and kindly at all times and places; never overlooking civility and greetings of his numerous friends; on proper occasions mirthful and humorous. It was always a pleasure to meet him, and withal he was a good and helpful neighbor. The community suffered a great loss in the death of James J. McHenry.

In politics he was a life-long Democrat and true to the real principles of that party, but never an office-seeker nor holder of any important office.

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WILLIAM S. McMASTER.

William S. McMaster, son of Samuel S. McMaster, was born at the "McMaster Homestead," in Worcester County, Maryland, on the 10th day of February, 1848. He came to Princess Anne, in Somerset County, in 1868, and began the study of law in the office of the late John W. Crisfield, and was admitted to the bar in 1871. He formed a law partnership with the late Col. Levin Woolford which continued for several years.

In 1875 Mr. McMaster married Miss Ellen Dale, daughter of Rev. William Dale, of Pocomoke City, Md. In 1879 he was appointed a commissioner in chancery for the Circuit Court for Somerset County, and in 1881 he was elected a commissioner of the town of Princess Anne. In 1882 he was appointed a justice of the peace, and held the position until he was appointed county treasurer of Somerset County in 1894. He was treasurer from July, 1894 until July, 1896. Upon the death of the late Robert F. Brattan in 1894, Mr. McMaster was appointed auditor of the Circuit Court for Somerset County, and filled that position at the time of his death. He was also a director of the Bank of Somerset and of the Mutual Fire Insurance Company of Somerset and Worcester Counties.

Mr. McMaster practiced his profession from his admission to the bar until his last illness, and died at his home in Princess Anne on the 15th day of December, 1906, and left surviving him a widow and two daughters, Mrs. Robert F. Duer and Miss Ella D. McMaster, all of whom reside in Princess Anne. He was buried in St. Andrew's Protestant Episcopal Churchyard. At the time of his death, he was the oldest resident member practicing at the bar of Somerset County.

As a lawyer Mr. McMaster was careful and painstaking and a safe counsellor; as a citizen he was straightforward and public-spirited; as an officer he was faithful, efficient and

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accommodating; and as a man his conduct was honest, upright and above reproach.

Conscientious in the discharge of every duty, his well-spent life endeared him to the whole community in which he lived, and he died in the enjoyment of the highest esteem of all who were brought in contact with him, in social, professional and official life.

WILLIAM R. MARTIN.

William Richardson Martin was born in Worcester County, Maryland, May 27, 1854, and was the third son of Edward Duffield Martin and Lucy Richardson, of Caroline County; his father was clerk of the court of Worcester County. Judge Martin attended the public schools of his county and was graduated from Delaware College in 1874; he taught school at Middletown, Delaware, for a short time and came to Easton in September, 1875, as a teacher at the Easton Academy.

He began reading law about this time under the late Judge John R. Franklin and was admitted to the bar on November 20, 1876.

He practiced law with the late Isaac C. W. Powell, of Talbot County, under the firm name of Powell & Martin until 1883; he practiced alone until 1896, when George W. Wilson was associated with him.

Judge Martin was elected Associate Judge of the Second Judicial Circuit at the November election, 1895, together with Judges James A. Pearce and Frederick Stump.

Judge Martin married Francis Starr, daughter of Robert Starr, of Baltimore, in 1885; she survives him with two children, Maria Frances Martin and Edward Duffield Martin, Jr.

Judge Martin had a slight stroke of paralysis while attending court at Chestertown in October, 1905; he was visiting Mr. Preston B. Spring on Long Island when he suffered a second stroke and died on September 5, 1906.

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JOSEPH C. MULLIN.

On the 25th of October, 1906, Joseph C. Mullin died.

He was a young man, born September 11, 1872, and seemed to be just entering upon a career which all who knew him were sure would be honorable, and which all his friends believed would be distinguished.

Mr. Mullin's character was so transparent, his mental make-up so crystalline in its purity that to be with him for an hour was to receive a suggestion in outline of the man, whom the most familiar acquaintance of years would only more fully reveal.

Wherever he went, he carried with him an atmosphere that seemed to belong to him.

No one could come into contact with him and not feel that he was a gentleman to the finger tips, with all the gentleness and all the manliness that make the word, when properly used, such a title of nobility.

He could not deceive. He had high ideals.

He was knightly in an old fashioned manner of courtesy, and to needlessly wound the feelings of any one would have been to him a dishonor.

He was knightly too in an old-fashioned loyalty to duty as he saw it; and whether this duty was patriotic, professional, or filial, no pleasure, nor inconvenience, nor danger could either lure or frighten him from the path to which it beckoned.

These characteristics largely made him the man he was; modest in aspiring to leadership, but never shirking whatever duty was thrust upon him; a friend on whom to always count, and a son on whom his family could lean with absolute confidence, and in whom they could have pride without fear.

These qualities gave him that patience of genius for details, that willingness to perform the hard work of subordinate positions, which were, when death claimed him, begin-

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ning to bring their reward of greater responsibilities and more prominent official station.

His briefs in the Court of Appeals, even in the abridged and emasculated form in which they necessarily appear in the reports, particularly his briefs in the cases of Chassaing *vs.* Durand, 85 Md. 420, Beeler *vs.* Clarke, 90 Md. 221, and Safe Deposit Co. *vs.* Flaherty, 91 Md. 489, give very clear indications that, beside painstaking research and untiring industry, he had acquired in no small degree the capacity for close reasoning and the power to grasp, elucidate and enforce nice legal distinctions.

That his conscientious painstaking, both as a lawyer and a citizen, were acknowledged and were already fructifying in honor, influence and emolument is evident by the fact that although only thirty-four years old when his career ended, he was then Recording Secretary of the Maryland Historical Society, Professor of Commercial Law and Director of the Practice Court at the Baltimore Law School, President of the Alumni Association of Loyola College, Counselor of the Hibernian Society, a member of the Committee of Grievances of the Baltimore Bar Association, and one of the Executive Committee of the Maryland Civil Service Reform Association.

Few men of his age possessed his mental culture, or equalled him in extent of reading, while few men of any age matched him in charm of companionship.

He never married; but, in his father's family, in the affection of friends—more numerous than it is the good fortune of many of us to obtain—and in the legal and civic life of the City of Baltimore, his absence leaves a void which cannot be easily filled.

F. EUGENE WATHEN.

F. Eugene Wathen, a member of this association, died very suddenly on November 7, 1905, aged forty-four years.

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He was originally from St. Mary's County and was born in Leonardtown just as the Civil War commenced. His father was killed in the celebrated charge of the Second Maryland Confederate Infantry at Gettysburg.

The subject of this sketch graduated from St. John's College, Annapolis, with highest honors, after which he made Annapolis his home, studied law, graduated and settled there. He, however, never cared for any branch of the profession, except equity.

Subsequently he purchased the *Maryland Republican* and edited that paper until his death. He was examiner and treasurer of the public schools of Anne Arundel County and took a leading part in educational matters of the State.

He married Miss Bettie Revell, of Annapolis, who now survives him.

He was loyal to his friends as a knight of old, but never showed bitterness to his foes. He was a good writer, a fair speaker, a warm-hearted companion and in his life typified the adage that "An honest man is the noblest work of God."

The President: What is the pleasure of the Association as to the report of the Committee on Legal Biography?

Oscar Leser, of Baltimore City: I think it would be a great mistake to adopt that amendment.

James U. Dennis, of Baltimore City: I move that the report, except that part as to the suggested Constitutional amendment, be received.

The motion was adopted.

H. L. D. Stanford, of Princess Anne: I notice on the program that on July 4th is a heading for the discussion of the Reports of Committees, and it occurs to me that in order to give time for proper consideration of these matters the discussion should take place under its proper heading, and I now move that the discussion of the suggestion of the Committee be postponed and taken up in

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its proper order under the head of "Discussion of Reports of Committees."

Joshua W. Miles, of Princess Anne: I do not wish to be understood as criticizing the Chair at all, but I did think that my point of order in reference to the discussion of the paper of the Attorney-General was a good one and that there should be time to think over the subject matter before it is called up for discussion. I am in favor of the motion that the discussion be postponed as suggested.

The President: The motion is made that the matter be postponed until Thursday, and the Chair has entertained that motion.

The motion was adopted.

The President: The report of the Committee on Judicial Administration and Legal Reform is now in order.

William C. Devecmon, of Cumberland: In the absence of the Chairman, I submit the report of the Committee.

REPORT OF THE COMMITTEE ON JUDICIAL ADMINISTRATION AND LEGAL REFORM.

Your Committee has heretofore made a preliminary report, which has been printed and mailed to the members of the Association. This was accompanied by printed copies of certain bills, recommended by your Committee for the approval of the Association and certain others reported for discussion at the annual meeting of the Association.

Of the bills recommended, the first (Preliminary Report, I) is for the appointment by the governor of a commission to revise and codify the criminal law of the State. As there has been no revision of even the statute law of crimes and punishments since 1860, your Committee believes that the importance of this recommendation cannot be exaggerated.

Your Committee recommends a change in the organic law of the State providing for the printing of legislative

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bills in substitution for the present method of engrossing by hand. (Preliminary Report, II.)

Article 3, section 27, of the constitution provides that "no bill shall be read a third time until it shall have been actually engrossed for a third reading."

As the accepted meaning of the word "engross," in 1867, was "to write or copy in a bold, round hand," there is sufficient doubt as to the legality of making the change in method by act of assembly, as to make it evident that nothing short of a constitutional amendment will make the advantages to be derived from this important and highly desirable change fully effective. There is, of course, no reason why, in the meantime, the legislature should not provide for the printing of all bills in addition to their engrossment by hand; and this we recommend as a temporary expedient until such time as the suggested amendment to the constitution shall become operative.

The reform embodied in this amendment was strongly urged upon the legislature of 1906 by the governor in a special message, in which he gave cogent and convincing reasons in support of it. In his regular message he had called attention to the pernicious practice of ignoring even the present requirement of "actual engrossing" of bills for third reading. The special message set forth the fact that the cost of engrossing for the last six sessions of the assembly was $149,124, of which $30,400 was spent in 1904; and that for the session of 1906 fifty-one engrossing clerks were employed. He characterized the present method as "not only obsolete, but cumbersome, inaccurate and very expensive," and estimated that the substitution of printing would produce a saving of $25,000 at each session.

Attention was furthermore called to the fact that printing is employed by Congress and in the most progressive States of the Union; that if adopted in Maryland it would "simplify and expedite the handling of bills, and ensure greater accuracy in their orthography, grammatical construction and

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legal form," allowing each member to be exactly informed on the measures he was voting for. "Such scrutiny," said the governor, "would prevent errors and insure correct, if not wise, legislation."

Your Committee strongly urges the approval of this great constructive reform.

The proposed amendment of section 367 in the bill recommended (Preliminary Report, III) simply designs that the provisions of said section shall apply to foreign corporations doing business in this State as well as to our domestic corporations.

The amendments to section 375 in the same bill are designed to make it the duty of the State's attorneys to file bills to restrain usurpation of corporate franchises without being directed by the governor so to do; and the additional provision is inserted allowing any citizen as relator to file a bill on behalf of the State to restrain the illegal exercise of public service franchises. It is believed that about one-third of the States allow any citizen as relator to do this or to take some similar proceeding against corporations generally; but the proposed amendment is not so sweeping.

The bill recommended (Preliminary Report, IV), as to removed case, provides for notice by the clerks to parties before the actual transmission of the record in order that there may be a timely correction of any errors or omissions.

The proposed bill (Preliminary Report, VI) contains an amendment (contained also in the bill reported by the corporation commission), allowing the formation of corporations for carrying on any lawful business. Such has been for many years the law in England under the acts relating to the formation of public companies, and there are like provisions in most of the States of the Union.

The bill recommended (Preliminary Report, VII), as to venue in criminal cases, is to meet a practical difficulty that may easily arise, and is in line with the existing provisions of the code as to offenses committed on navigable waters

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between counties, and offenses committed on railroad trains running through two or more counties.

The bill recommended (Preliminary Report, VIII) as to the admission of documents and copies as evidence has in view the simplification of proof of the same, and the saving of expense and delay to suitors. The method has long been in successful use in England, and many of our States, as well as the District of Columbia.

The bill proposed (Preliminary Report, IX) for the amendment of sections 49 and 50 of article 27 of the Code of Public General Laws (1889) is designed to give to all *live* property the protection now given only to horses and cattle.

The bill recommended (Preliminary Report, X) with regard to the affidavit to mortgages and assignments is for the purpose of clearly defining the form requisite on the one hand in the counties in which mortgages are taxed and on the other hand in those counties in which they are exempt from taxation.

The bill proposed (Preliminary Report, XI) as to co-ownership of money or other personal property is designed to remove the doubts as to the state of title in such cases that have been such a fruitful source of litigation.

Your Committee also recommends a bill (Preliminary Report, XII) a bill providing for making the State a party to certain judicial proceedings.

By section 19 of article 10 of the code (chapter 126 of the acts of 1821) it is provided that the State's attorney for each county and the city of Baltimore shall, in such county or city, prosecute and defend, on the part of the State, all cases in which the State may be interested.

Standing alone without ancillary legislation this provision of the code is without any practical effect.

By section 203 of article 16 the State's attorneys are directed to "appear to the bill" of complaint where a creditor's bill is filed, and it appears that there are no heirs.

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No provision is made for making the State a party to the suit or for notifying the State's attorney so that he can appear on behalf of the State in the case of a doubtful or disputed heirship.

By section 134 of article 93 it is provided that if there be no widow or relations of the intestate within the fifth degree the whole surplus (of an intestate's personal property) shall belong to the State and shall be paid to the Board of County Commissioners for the use of the public schools of the county. But here also no provision is made for notice to the State's attorney so that he can appear to defend the State's interest in the case of doubtful or disputed kinship.

In England whenever it appears in the proceedings that the crown has or may have an interest therein the court of its own motion directs that the attorney-general be made a party to defend the crown's interests; and if it appears manifest by the record that the crown has any interest in the proceeding the court will not only direct that the attorney-general be made a party but will, *sua sponte,* protect the interests of the crown. Apparently the courts of this State have no such power, and the powers and duties of the State's attorneys and of the attorney-general are strictly limited to such as are conferred and imposed upon them by our constitution and statutes. The English doctrine as to the duty of the court, *sua sponte,* to protect the State's interests was held by Chancellor Bland (The Wharf Case, 3 Bland 361, 384) to be applicable in this State, but his doctrine in that case was not upheld by the Court of Appeals and has never been followed; and though he was never distinctly overruled on this point, and though this might still be considered the correct view to take of the duty of the court in such cases; without some provision for making the State a party, so that the attorney for the State can appear to the suit, it is hard to see how the State's interests can be adequately protected. The design of this bill is to give to the State this protection.

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In addition to the recommendation to the Association for its approval of the bills mentioned, your Committee also recommends the adoption and presentation to the next general assembly of the resolutions (Preliminary Report, V) with regard to the indexing of acts of assembly and the time at which the same should be made to take effect.

Your Committee has also had before it for consideration a number of other bills. Of these some were, in its opinion, so important that, while unprepared to recommend them for approval, your Committee has thought they should be reported to the Association for discussion.

The first of these (Preliminary Report, XIII) is a bill to make provision for the judicial ascertainment of claims against the State, giving to the Superior Court of Baltimore City and the Circuit Courts in the counties a jurisdiction such as that exercised by the Court of Claims with regard to claims against the general government.

Your Committee also submits for discussion two bills (Preliminary Report, XIV, XV) with regard to records, deeds, etc., and the use of certified copies of the same as evidence. The change proposed by these is to permit the recording (besides such instruments as are now *required* to be recorded) of "all other instruments of writing affecting real estate which any party thereto may desire to have recorded," and to make certified copies of the same evidence.

The last of the bills reported for discussion deals with corporations now exempt from taxation by reason of charters granted before the constitution of 1850. As said by its draughtsman:

"This bill is drafted with the idea of giving effect to the spirit of section 48 of article 3 of the constitution of the State as amended under the provisions of chapter — of the Acts of 1890. While the provisions of said amendment to the constitution are prospective in their nature and do not undertake to subject to taxation corporations entitled to exemption under their charters execpt when such corpora-

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tions shall avail themselves of the provisions of any general or special act passed subsequent to the time when this amendment was adopted, nevertheless, it must be manifest that it was the intention of the people of the State, so far as they could by a constitutional amendment, to subject all such corporations to taxation, or in default thereof to limit such corporations strictly to the rights and powers granted by irrepealable charters. Inasmuch as prior to 1890 the legislature of the State had by general and special acts given to corporations almost every conceivable right and power which they could wish to enjoy they have been under no constraint to accept or use any special or general privileges conferred since then, and the constitutional amendment is virtually nugatory. It is hoped that the proposed act will give it practical effect."

Your Committee has given much consideration to the present organization and jurisdiction of our Orphans' Courts and are of opinion that an entire change is called for in the same. As they now are, a tribunal having to deal often with large interests and important and delicate questions of law, consists of a bench of laymen. In the counties this is practically without exception, though in Baltimore City an excellent custom has of late grown up of having one lawyer and a good one, of the number, who, too often, however, finds himself overruled by his lay colleagues.

Your Committee believes that for Baltimore City there should be a single judge of probate, a member of the Supreme Bench of like professional qualifications with the others, all non-contentious business to be attended to by the register, as is mostly the case now, and that the sending of issues to courts of laws should be done away with, such issues being heard by a jury before the probate judge in his own court. How great a relief this will be to the dockets of the courts of common law, is easily seen.

In the counties, the register, as now, would dispose of all non-contentious business, while contested matters would go

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to the Circuit Court; those requiring a jury to be heard at the regular jury terms of the common law side of the court.

As will be noted, the changes suggested for Baltimore City may be adopted without affecting the present system in the counties, but your Committee feels it cannot too strongly urge the adoption of a modern, rational system for the whole State.

The changes suggested would not only require several amendments to the constitution, but a complete revision of the 93d article of the Code of Public General Laws. The time and labor required for this has not been at the disposal of your Committee, who, therefore, respectfully suggest the appointment of a select committee to consider the whole subject and report thereon with the necessary bills for the amendment of the constitution and the revision of the article mentioned.

The problem of devising a remedy for the abuses of local and special legislation, so fully set out in the report of a select committee of the Association at its annual meeting in 1904, while not among the subjects assigned to your Committee for action, is one of such importance that we recommend the appointment of a special committee of five members to draft an appropriate constitutional amendment restricting the limits of local and special legislation and to advocate the passage of such amendment (if approved by the Committee on Judicial Reform and Legal Procedure) by the legislature.

By order of the Committee.

JOHN J. DONALDSON, *Chairman.*

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DRAFTS OF BILLS SUBMITTED WITH THE PRELIMINARY REPORT

OF THE

COMMITTEE ON JUDICIAL ADMINISTRATION AND LEGAL REFORM.

NOTE.—Acts from 1-12 are approved by the Committee. Acts 13-16 are reported for discussion.

I.

A Bill entitled, An Act authorizing the governor of this State to appoint a commission of three persons to revise and codify the criminal law of this State, and providing compensation for said commission and a fund to defray the necessary expenses thereof.

SECTION 1. Be it enacted by the general assembly of Maryland, That the governor of this State be and he is hereby authorized and empowered to appoint a commission of three persons, members of the bar and residents of this State, experienced in the practice of the law and of high standing in their profession, to take into consideration the revision and codification of the criminal law of this State, and to prepare the draft of a bill revising and codifying the same, which draft of a bill and the report of the commission shall be submitted to the next session of the general assembly of Maryland, at the opening thereof, for its action thereon.

SECTION 2. And be it enacted, That the members of said commission shall each receive the sum of one thousand dollars for their services on said commission to be paid them upon the completion of their work, and the comptroller is

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hereby authorized and directed to draw his warrant upon the treasurer for the payment of said sum of one thousand dollars to each member of said commission, whenever he shall be satisfied that the work of said commission has been faithfully and honestly performed; and the sum of fifteen hundred dollars, in addition to the compensation of the commissioners, is hereby appropriated out of any money in the treasury not otherwise appropriated, for the purpose of defraying the necessary expenses of said commission in printing, clerical service and the like, which sum the treasurer shall pay to said commission in installments upon the warrant of the comptroller from time to time as requested by said commission; and the treasurer shall likewise upon the warrant of the comptroller pay the compensation of said commissioners as herein before provided.

SECTION 3. And be it enacted, That this act shall take effect from and after May 1, 1908.

II.

A Bill entitled, An Act to amend section 27 of article 3 of the constitution of this State.

SECTION 1. And be it enacted by the general assembly of Maryland (three-fifths of the members of the two houses concurring), That the following section be and the same is hereby proposed as an amendment to the constitution of this State and if adopted by the legal and qualified voters thereof as hereafter provided, it shall supersede and stand in the place and stead of section 27 of the article 3 of the State constitution.

SECTION 27. Any bill may originate in either house of the general assembly, and be altered, amended or rejected by the other; but any bill so originating in either house during the last ten days of the session, unless two-thirds of the members elected thereto shall so determine by yeas and nays; nor shall any bill become a law except it be read

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on three different days of the session in each house, unless two-thirds of the members elected to the house where such bill is pending shall so determine by yeas and nays; and no bill shall be read a third time until it shall have been printed in clear, bold type for a third reading.

SECTION 2. And be it further enacted by the authority aforesaid, That the said foregoing section hereby proposed as an amendment to the constitution shall be, at the next general election held in this State, submitted to the legal and qualified voters thereof for their adoption or rejection, in pursuance of the directions contained in article 14 of the constitution of this State, and at the said general election the vote on said proposed amendment to the constitution shall be by ballot, and upon each ballot there shall be written or printed the words, "for the constitutional amendment," or "against the constitutional amendment," as the voter shall elect, and immediately after said election, due return shall be made to the governor of the vote for and against said proposed amendment, as directed by the said 14th article of the constitution.

III.

A Bill entitled, An Act to repeal and re-enact with amendments sections 367 and 375 of article 23 of the Code of Public General Laws, title, "Corporations," sub-title, "Remedies for Abuse, Misuse or Non-use of Corporate Powers."

SECTION 1. Be it enacted by the general assembly of Maryland that section 367 of article 23 of the Code of Public General Laws of Maryland, title, "Corporations," sub-title, "Remedies for Abuse, Misuse or Non-use of Corporate Powers," be and the same is hereby repealed and re-enacted so as to read as follows:

SECTION 367. Whenever the attorney-general of the State or the State's attorney for the city of Baltimore or for any county in this State shall be authorized by the

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governor to institute proceedings against any corporation incorporated under the laws of this State to ascertain whether such corporation has been guilty of such misuse, abuse or non-use of its corporate powers and franchises, as by law would authorize and make proper the forfeiture of its charter, corporate powers and franchises, or against any corporation not incorporated under the laws of this State, but doing business therein under the license or authority of this State, express or implied to ascertain whether such foreign corporation has been guilty of such abuse, misuse or non-use of the powers or franchises conferred on such corporation by such license or authority, as by law would authorize and make proper the forfeiture of such license or authority, the attorney-general or State's attorney so authorized shall file in the court hereafter designated a petition in the name of the State, setting forth fully and in detail the alleged abuse, misuse or non-use, by reason whereof the said forfeiture is sought; and upon the filing of such petition, the court in which it is filed, or any judge thereof, shall lay a rule requiring the said corporation to show cause, within such time as the judge may deem proper, why a decree of forfeiture should not issue as prayed in said petition; a copy of which rule and of the petition shall be served on the said corporation by a day to be therein limited, which shall be served as other process against such corporation is ~~directed~~ to be served.

SECTION 2. And be it further enacted that section 375 of article 23 of the Code of Public General Laws of Maryland, title "Corporations," sub-title "Remedies for Abuse, Misuse and Non-use of Corporate Powers," be and the same is hereby repealed and re-enacted so as to read as follows:

SECTION 375. It shall be the duty of the State's attorney for Baltimore City and for the several counties in this State whenever he or they shall have reason to believe that it can be established by proof that any corporation organized under the laws of this State has assumed and is exercising in such

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city or county any franchise, liberty or privilege not authorized by its charter, or that any corporation incorporated under the laws of any other State but doing business in this State under its license, and authority express or implied, has assumed and is exercising in such city or county any franchise, liberty or privilege not authorized by such license or authority, or that any person or persons has or have assumed, and is or are exercising in such city or county, any corporate rights, privileges or franchises not granted to him or them by any law of this State, to file a bill in the Circuit Court for Baltimore City if such rights, privileges or franchises are being exercised in said city, or in the Circuit Court for any county wherein such rights, privileges or franchises may be exercised or carried on to restrain such corporation or person or persons from assuming or exercising any franchise, liberty or privilege not authorized by the laws of this State; and whenever any corporation, whether domestic or foreign, or any person or persons shall assume or are exercising the functions of public service corporations in the city of Baltimore or in any county in the State without authority of law a bill may be filed by any citizen of said city or county wherein such franchises are being unlawfully exercised in the name of the State to restrain such unlawful exercise of such franchises or privileges; but before any summons shall be issued in the name of the State upon the relation of any individual citizen the relator shall file in the court a bond to the State of Maryland in such sum as the court may deem proper to require to secure the State against any cost or expenses incident to the filing of such bill, and to secure the defendant or defendants against any costs and damages, including counsel fees, that might be sustained by such defendant or defendants by the wrongful filing of such bill; and upon the filing of any bill under this section, the court in which it shall be filed shall have power to issue the injunction either before or after hearing, and under and on such terms as it may prescribe, and generally shall have

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and exercise all the powers of a court of equity over the subject matter of said bill, and all the provisions of the laws of this State relating to the granting, continuing or dissolving of injunctions in other cases, and provided for appeals to the Court of Appeals which may be applicable, shall apply to proceedings under this section.

IV.

A Bill entitled, An Act to amend article 75 of the Code of Public General Laws of Maryland, title, "Pleadings, Practice and Process at Law," sub-title, "Removal of Causes," by adding a section thereto to follow section 102, and to be known as section 102-A, providing for the giving of notices to the parties before the actual transmission of any record under the suggestion of removal.

Be it enacted by the general assembly of Maryland, That article 75 of the Code of Public General Laws of Maryland, title, "Pleading, Practice and Process at Law," sub-title, "Removal of Causes," be and the same is hereby amended by adding a section to follow section 102 to be known as section 102-A, reading as follows:

102-A. In all cases where a suggestion for the removal of a cause is filed, as provided in the preceding section hereto, it shall be the duty of the clerk of the court in which such suggestion is filed to notify counsel for all parties interested immediately the record in such cause is made up for transmission to the court to which the same has been directed to be removed, giving such parties a reasonable opportunity for the inspection of such record, and no cause so removed shall stand for trial in the court to which sent unless it shall appear from the record so transmitted, either that such opportunity to inspect the record has been given as aforesaid, or that such inspection has been waived either by a written statement to that effect filed in the cause, or

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by the lapse of the time prescribed in the notice sent by the clerk as aforesaid.

V.

WHEREAS much inconvenience has heretofore been caused the public by reason of the defective and faulty indexing of the acts of the general assembly of Maryland;

And Whereas it is declared by section 31 of article 3 of the constitution of the State of Maryland that "no law passed by the general assembly shall take effect until the first day of June next after the session at which it may be passed, unless it be otherwise expressly declared therein," and whereas the practice universal of making nearly all laws passed by such general assembly take effect on a date earlier than the first day of June next after the session at which such laws were passed, virtually ignores the true spirit of the constitutional provision, and has resulted for several months after each session of the legislature in great uncertainty on the part of the public as to the real state of the Statutory Law of Maryland, thereby tending to the general inconvenience of all concerned without there being, in most cases, any public necessity therefor;

And Whereas like inconveniences have been occasioned by the delay in publishing in official and accessible form the acts of assembly enacted at the several sessions thereof;

Now Therefore, we, the members of the Maryland State Bar Association, do respectfully make the following recommendations to the general assembly of Maryland, to wit:

First. That such general assembly at the session of 1908 and thereafter biennially make appropriate provisions for the indexing of the acts passed at each session in a more convenient, modern and scientific manner.

Second. That except in those cases where it is made to appear clearly that public convenience requires acts passed by the general assembly of Maryland to become effective at

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some date prior to the first day of June next, after the session at which such acts are passed, or at a later date, no provision be made for any date upon which the same shall become effective, but that the same may be allowed to be controlled by the provisions of section 31 of article 3 of the State constitution.

Third. That the general assembly shall at its session of 1908 and thereafter make appropriate provisions for the printing and distribution of officially bound copies of the acts of assembly passed at such session by date not later than the first day of June next succeeding.

VI.

A Bill entitled, An Act to repeal and re-enact with amendments section 23 of article 23 of the Code of Public General Laws of Maryland.

SECTION 1. Be it enacted by the general assembly of Maryland, That section 23 of article 23 of the Code of Public General Laws of Maryland be, and the same is hereby repealed and re-enacted so as to read as follows:

23. Class 8. For conducting or carrying on in this State and elsewhere, any lawful business not prohibited by the laws of Maryland, where the principal office and place of business of the corporation are located in this State.

SECTION 2. And be it enacted, That this act shall take effect from the date of its passage.

VII.

A Bill entitled, An Act to amend article 27 of the code of 1904, Public General Laws of Maryland, title, "Crimes and Punishments," sub-title, "Jurisdiction," by adding a new section thereto following section 433 and to be designated section 433-A.

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SECTION 1. Be it enacted by the general assembly of Maryland, That article 27 of the code of 1904, Public General Laws of Maryland, title, "Crimes and Punishments," sub-title, "Jurisdiction," be and the same is hereby amended by adding a new section thereto, following section 433 and to be designated section 433-A, and to read as follows:

SECTION 433-A. Any person who shall commit any crime, felony or misdemeanor at, on or so near to any boundary or divisional line between any of the counties of this State as to render it doubtful in which county the offense was committed, or where the location of such boundary is uncertain, then the county which first assumes jurisdiction of such offense by arresting the offender shall have jurisdiction to hold, charge, present, indict, try and sentence, if convicted, such offender, and in such cases it shall only be necessary for the State, in order to establish the venue of the county in which the accused is being tried as alleged in the warrant, information or indictment, to prove that the offense was committed at or on, or so near to the boundary line of such county and some other adjoining county, as to render it doubtful in which county the offense was committed, or that the boundary line at that place is uncertain as to its exact location, but if the accused shall at or before the trial establish to the satisfaction of the court that the offense was committed in some other county of this State, the court may, upon motion of the accused, remand him to custody or take a recognizance from him to appear in the proper court, and shall transmit a copy of the order or recognizance to such court forthwith, otherwise the judgment of the court first assuming jurisdiction shall have the same conclusive effect as if the offense were shown to have been committed within such county.

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VIII.

A Bill entitled, An Act to amend article 75 of the Code of Public General Laws of Maryland, title, "Pleadings, Practice and Process at Law," by adding four new sections under the sub-title, "Production of Books and Answering Bill of Discovery," to follow section 101, and to be numbered sections 101-A, 101-B, 101-C and 101-D, respectively, providing for the admission of documents and copies as evidence.

SECTION 1. Be it enacted by the general assembly of Maryland, That article 75 of the Code of Public General Laws of Maryland, title, "Pleadings, Practice and Process at Law," be amended by the addition of four sections under the sub-title, "Production of Books and Answering Bill of Discovery," the same to follow section 101 of said article, to be numbered sections 101-A, 101-B, 101-C and 101-D, respectively, and to read as follows:

101-A. Either party to any action at law or cause in equity or other judicial proceeding in any of the courts of this State may call on the other party by notice to admit the genuineness of any document or copy, or the fact of service of the same, the proof of which in said action, cause or proceedings he deems necessary, saving all just exceptions to the admissibility of such as evidence. In the case of neglect or refusal to admit the cost of proving such documents, copy or service shall be paid by the party so neglecting or refusing to admit the same and taxed as costs to be borne by such party, whatever the result of the cause may be, unless at the trial the judge shall certify that the refusal to admit was reasonable.

101-B. The following, or the like in substance, shall be the form of a notice to admit:

To attorney for :—

Take notice that the plaintiff (or defendant, as the case may be) in this cause proposes to adduce in evidence on the trial thereof the several documents or copies hereunder

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specified; that the same may be inspected by the plaintiff (or defendant), his attorney or agent, at , on the day of , between the hours of and ; and that the said plaintiff (or defendant) will be required to admit that such of said documents as are herein specified to be originals were respectively written, signed or executed as they purport respectively to have been; that such as are specified as copies are true copies, and that such of such documents or copies as are stated to have been served, sent or delivered, were so served, sent or delivered, respectively, saving all just exceptions to the admissibility of all such documents and copies as evidence in this cause.

Dated this day of

.....attorney for plaintiff.

101-C. If the party to whom the notice is addressed make such admission generally it may be endorsed on or subscribed to the notice, as follows:

I consent to make the admission required in the written notice, or

I consent to admit documents numbered 1, 2, 3, 4, etc.

101-D. If the admission be special it may be made in a separate paper, as follows:

I do hereby, as attorney for the above mentioned plaintiff (or defendant) agree to admit on the trial of the above cause, subject to all just exceptions to the admissibility of the same as evidence therein the paper writing hereto annexed marked "A" as and to be a true copy of (state of what), and the paper writing hereto annexed marked "B" as and to be a true copy of, etc. (or, as the case may be, the paper writing hereto annexed marked "A" to have been written, signed or executed as it purports to have been, or to have been served, sent or delivered to by on the day of).

SECTION 2. And be it enacted, That this act shall take effect from June 1st, 1908.

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IX.

A Bill entitled, An Act to repeal and re-enact with amendments sections 49 and 50 of article 27 of the Code of Public General Laws of Maryland, title, "Crimes and Punishments," sub-title, "Destroying Property Maliciously."

SECTION 1. Be it enacted by the general assembly of Maryland, That sections 49 and 50 of article 27 of the Code of Public General Laws of Maryland, title, "Crimes and Punishments," sub-title, "Destroying Property Maliciously," be, and the same hereby are repealed and re-enacted with amendments, so as to read as follows, viz:—

49. Every person convicted of wilfully and maliciously killing, wounding, destroying, maiming or otherwise injuring any domestic or tame animal or fowl, being the property of some other person, shall on conviction thereof be fined not exceeding one thousand dollars or be confined in the Jail, House of Correction or Penitentiary not exceeding four years, or shall be both so fined and imprisoned in the discretion of the court.

50. Every person who shall be convicted of an attempt to commit the offense set out in the last foregoing section shall be fined not exceeding dollars, or confined in the Jail, House of Correction or Penitentiary not exceeding or both, so fined and imprisoned in the discretion of the court.

X.

A Bill entitled, An Act to repeal and re-enact with amendments sections 30 and 33 of article 21 of the Code of Public General Laws of Maryland.

SECTION 1. Be it enacted by the general assembly of Maryland, That sections 30 and 33 of article 21 of the Code of Public General Laws of Maryland be, and the same are repealed and re-enacted so as to read as follows:

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30. No mortgage shall be valid except as between the parties thereto, unless there be endorsed thereon an oath or affirmation of the mortgagee that the consideration in said mortgage is true and bona fide as therein set forth; and unless there be endorsed on all mortgages executed since March 27th, 1902, and hereafter in those counties wherein the tax on mortgages is imposed and collected, the following additional oath or affirmation, to wit: "That the mortgagee has not required the mortgagor, his agent or attorney, or any person for the said mortgagor to pay the tax levied upon the interest covenanted to be paid in advance, nor will he require any tax levied thereon to be paid by the mortgagor or any person for him during the existence of this mortgagor." These affidavits or affirmations may be made at any time before any one authorized to take the acknowledgment of a mortgage, and shall be recorded with the mortgage.

33. Every assignment made in the above form, or the same in substance, endorsed upon the original mortgage shall be construed and deemed sufficient to convey to the assignee every right which the assignor possessed under said mortgage at the time of the assignment thereof, in as full and ample a manner as any instrument of writing whatever could do. But no assignment of any mortgage executed since March 27th, 1902, and hereafter in those counties wherein the tax on mortgages is imposed and collected, except assignments for the purpose of foreclosure, shall be valid except as between the parties thereto, unless there be endorsed thereon the following oath or affirmation, to wit: "That the assignee has not required the mortgagor, his agent or attorney, or any person for the said mortgagor, to pay the tax levied upon the interest covenanted to be paid in advance, nor will he require any tax levied thereon to be paid by the mortgagor or any person for him during the existence of this mortgage." This oath or affirmation may be made by any agent or attorney of the assignee, who shall,

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in addition thereto, make oath or affirmation that he is the agent or attorney of the assignee; and said oaths or affirmations shall be recorded with the assignment.

XI.

A Bill entitled, An Act to amend article 50 of the Code of Public General Laws of Maryland, title, "Joint Obligations and Joint Tenancy," by adding thereto a new section to be known as section 14.

SECTION 1. Be it enacted by the general assembly of the State of Maryland, That article 50 of the Code of Public General Laws of the State of Maryland, title, "Joint Obligations and Joint Tenancy," be, and the same is hereby amended by adding thereto a new section to be known as section 14, and to read as follows:

14. Whenever money or other personal property is deposited with any banking, safe deposit or trust company, subject to the order of two or more persons, or either of them, and the survivors or survivor of them, such deposit shall be deemed and construed to create in such persons joint ownership of said money or other personal property, which said joint ownership shall have all the incidents of an estate in joint tenancy at common law, unless a contrary intention shall appear from the instrument.

SECTION 2. And be it enacted, That this act shall take effect from the date of its passage.

XII.

A Bill entitled, An Act to provide for making the State a party to any suit at law or in equity, and to any proceeding in any Orphans' Court, and to any condemnation proceeding whenever it shall appear that the State has or may have an interest in, or its rights may be or might be affected by,

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such suit at law or in equity or such proceeding before the Orphans' Court, or such condemnation proceeding; and for giving notice thereof to the State's attorney for the county or city in which such suit or proceeding is pending.

SECTION 1. Be it enacted by the general assembly of Maryland, That whenever it shall appear in any suit at law or in equity or in any proceeding before any Orphans' Court in this State that the State has or may have any interest in the subject matter of the litigation or proceeding, or that the State's rights may be or might be affected by any judgment, decree or order that might be passed in relation thereto, it shall be the duty of the court before which such suit or proceeding is pending to order that the State be made a party, either plaintiff or defendant as the State's interest may appear to require, to such suit or proceeding; and the clerk of the court in which such suit is pending, and of the register of wills in the case of any such proceeding before any such Orphans' Court, shall cause a copy of such order of the court, together with a copy of the titling of the cause, to be served on the State's attorney for the county or city in which such suit or proceeding is pending.

SECTION 2. And be it further enacted, that upon the return of any inquisition in any condemnation proceeding, if it shall appear that the State has or may have any interest therein, or that its rights or interests are or may be affected thereby, it shall be the duty of the court to which such return is made to pass an order directing that the State be made a party to such proceeding, either plaintiff or defendant as the court may direct; and the clerk of the court in which such suit or proceeding is pending shall cause a copy of such order together with a copy of the titling of the cause to be served on the State's attorney for such county or city.

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XIII.

A Bill entitled, An Act to amend article 26 of the Code of Public General Laws, title, "Courts," by adding a new sub-title thereto, entitled "Claims Against the State," to follow section 39 of said article, and the sub-title, "Circuit Courts for the Counties," providing for the hearing and determination of claims against the State of Maryland by the circuit courts for the several counties, and the Superior Court of Baltimore City.

Be it enacted by the general assembly of Maryland, That article 26 of the Code of Public General Laws of Maryland, title, "Courts," be amended by adding a new sub-title thereto to be entitled "Claims Against the State," to follow section 39 of said article, and the sub-title, "Circuit Courts for the Counties," and to read as follows:

Claims Against the State.

39-A. The circuit courts of the several counties of this State and the Superior Court of Baltimore City, in addition to the jurisdiction which they already have, shall have to hear and determine all cases arising from the payment of private claims against the State in accordance with the provisions of this sub-title.

39-B. Suits against the State on private claims of any character shall be commenced by petition verifying in the manner provided by law and filed in the office of the clerk of the circuit court of the county in which the claimant is a bona fide resident, or in the Superior Court of Baltimore City in case the claimant be a bona fide resident of Baltimore City. One extra copy of such petition in typewriting shall be filed with said clerk at the time of the filing of such petition, and such clerk shall forthwith cause a copy to be forwarded to the attorney-general. Such petition must set forth:

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(1) The title of the action with the full Christian and surname of all the claimants.

(2) A plain, concise statement of the facts giving venue and date free from argumentive, irrelevant and impertinent matter.

(3) The claimant must state distinctly the amount for which he demands judgment or the relief for which he prays.

(4) If the claim be founded upon an act of the general assembly of Maryland, the act at the session thereof upon which the claimant relies must be specified.

(5) If the claim be founded upon an express contract with the State of Maryland, or any officer thereof authorized to make such a contract in its name, the substance of such contract must be set forth in the petition, and if it be in writing the original or a copy must be annexed thereto. If it be founded upon an unidentified contract the fact upon which the claimant relies to prove a contract must be specified. If it consists of several matters or items, each must be separately stated.

39-C. If it appear on the face of a petition that the claim first accrued more than three years before the petition was filed, the claimant must aver therein the existence and period of duration of some disability recognized by law which prevented his filing his petition within that time, or aver other facts or circumstances recognized by law which would prevent the operation of the statute of limitations in force in this State from being effective against said claim. In default of which said averment or averments it will be considered that no such disability or defense existed, and the petition shall be dismissed on motion. If upon the face of the petition it does not appear when the claim first accrued, the court may require the claimant to make the petition definite and certain in that regard, and in default whereof, may dismiss the suit. Averments in regard to the time when a claim first accrued or in regard to an alleged dis-

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ability of the claimant or existence of facts constituting a defense against the statute of limitations as aforesaid, will be held to be put in issue by the defendant's general traverse.

39-D. After the filing of any such petition any person granting to be directly or indirectly interested in any question involved in such case, may appear as a party therein by filing his petition upon setting forth specifically and concisely how he claims to be interested, submitting the questions raised to the decision of the court and obtaining an order of court authorizing him to become a party to such proceedings.

39-E. All the proceedings in any such case may be amended from time to time in the same manner and to the same extent as other proceedings in said courts.

39-F. If the claimant be an executor, administrator, guardian, trustee or other representative appointed by a judicial tribunal, a duly authenticated copy of the record of the appointment must be filed with the petition.

39-G. If the claimant dies pending a suit, his death may be suggested on the record and his proper representative on filing a duly authenticated copy of the record of his appointment as executor or administrator may be admitted to prosecute said suit.

39-H. Where a suit is prosecuted in the name of the widow of a deceased claimant, it must be shown by evidence that the claimant is such widow of the deceased; and where it is prosecuted in the name of the heirs or next in kin of the deceased, it must be shown that they are heirs or next of kin. In all such cases such facts shall be held to be put in issue by the defendant's general traverse.

39-I. Demurrers and pleas must be filed within 60 days after the filing of the petition unless the court extends the time.

39-J. Unless the attorney-general shall within 60 days after the service of the petition upon him appear and defend on behalf of the State by filing a plea, answer or demurrer,

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or by filing a notice of any counter-claim, set-off, claim of damages, demand or defense in the premises, a general traverse of the petition shall be considered as entered on the part of the defendants and the case shall be proceeded with the same as though an answer of general traverse had been filed.

39-K. In all such cases where it becomes necessary to serve orders or copies thereof upon the State, service of such orders or copies when served upon the attorney-general shall be deemed to have been duly served.

39-L. All such cases shall be heard and determined by the court without a jury.

39-M. All witnesses in such cases shall be sworn in the usual manner, and a true copy of their testimony under oath filed with the clerk of the court in which such case is heard, a duplicate copy thereof being transmitted by such clerk, together with a transcript of a full record of the proceedings and papers filed in such cause being transmitted by said clerk to the comptroller of the State of Maryland immediately upon the determination of said case by the court if against the State. All exhibits filed with the testimony of witnesses must be carefully marked so as to be capable of immediate identification, and copies thereof must be transmitted with the copy of the record as aforesaid.

39-N. In all other respects the proceedings in such causes shall conform to the proceedings in said courts in common law actions and to the rules of said respective courts as adopted therein.

39-O. In all such cases where the judgment of the court shall be for a sum not exceeding $300, and in case there has been no appeal by the State to the Court of Appeals of Maryland within the time allowed by law for such appeal in civil cases, said claims shall be paid by the State treasurer upon warrant of the comptroller, out of any funds in the State treasury, otherwise unappropriated.

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39-P. In all such cases where the amount of such judgment so rendered by the court as aforesaid shall exceed the sum of $300, said claim in the form of a transcript of such record shall be first presented to the comptroller of the treasury and reported upon by him to the next succeeding session of the general assembly of Maryland.

XIV.

A Bill entitled, An Act to repeal and re-enact with amendments section 64 of article 35 of the Code of Public General Laws of Maryland.

SECTION 1. Be it enacted, That section 64 of article 35 of the Code of Public General Laws of Maryland be, and the same is hereby repealed and re-enacted so as to read as follows:

64. Copies of any record in the custody of any of the clerks of the courts of law or equity, or register of wills, certified by such clerk or register under the seal of his office shall be evidence; and all judgments, decrees, deeds and other papers and proceedings required or permitted by law to be recorded, shall be considered records within the meaning of this section. Short copies of judgments or decrees rendered by any court of record of this State, certified by the clerk under the seal of the court, with the docket entries, shall be admissible evidence in any other court in this State, to prove the recovery of such judgment or decree; and it shall not be necessary to produce a full exemplified copy of the record in order to prove such judgment or decree.

XV.

A Bill entitled, An Act to repeal and re-enact with amendments section 54 of article 17 of the Code of Public General Laws of Maryland.

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SECTION 1. Be it enacted by the general assembly of Maryland, That section 54 of article 17 of the Code of Public General Laws of Maryland be, and the same is hereby repealed and re-enacted so as to read as follows:

54. They shall record all deeds, mortgages, bills of sale and other instruments of writing required to be recorded, and all other instruments of writing affecting real estate which any party thereto may desire to have recorded, in a well-bound book, which book shall contain an alphabetical index in the names of all parties to such deed, mortgage, bill of sale or other instrument of writing; provided, that they shall not be required to record or receive for recording, any deed, mortgage, bill of sale or other instrument of writing, unless the fees for recording the same as regulated by law shall first be paid by the person offering the same for record.

XVI.

A Bill entitled, An Act to limit the rights, privileges and advantages of every corporation entitled by its charter, or any amendment thereof, to exemption from taxation in this State to such rights, privileges and advantages as were granted in and by its charter, or in and by acts amendatory thereof passed prior to the time when the constitution of 1851 of this State went into effect, or in or by general, local or special acts passed prior to that time; and to prohibit and prevent the use, enjoyment and exercise by any such corporation of any of the rights, privileges and advantages conferred upon or granted to corporations generally of this State by any general or special or local act passed since the constitution of 1851 went into effect, except upon the condition that such corporation so entitled to such exemption from taxation shall surrender, waive and release such exemption on or before the 31st day of June, 1908; and to provide that any corporation chartered by this

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State which shall after the 31st day of June, 1908, accept, use, enjoy or in any wise avail itself of any rights, privileges or advantages granted or conferred by any general or special or local act passed since the time the constitution of 1851 went into effect, shall be conclusively presumed to have thereby surrendered any exemption from taxation to which it may be entitled under its charter or under any act amendatory thereof, and shall thereafter be subject to taxation as if no such exemption had been granted by its charter or by any act amendatory thereof; and to repeal all acts and parts of acts in conflict with the provisions of this act in so far as they may conflict therewith.

SECTION 1. Be it enacted by the general assembly of Maryland, That every corporation entitled to any exemption from taxation in this State in and by its charter, or by any act amendatory thereof, be and it is hereby prohibited from using, enjoying or in any wise availing itself of any rights, privileges or advantages whatsoever granted or conferred by any general, special or local act passed since the constitution of 1851 went into effect unless such corporation shall on or before the 31st day of June, 1908, surrender, waive and release such exemption as hereinafter provided.

SECTION 2. And be it enacted that none of the provisions of any general, special or local law of this State passed since the constitution of 1851 went into effect granting rights, privileges or advantages to corporations generally shall be held to apply to any corporation entitled to any exemption from taxation in this State by its charter or by any act amendatory thereof, unless such corporation shall on or before the 31st day of June, 1908, surrender, waive and release such exemption as hereinafter provided.

SECTION 3. And be it enacted that in case any corporation entitled to any exemption from taxation in this State by its charter or by any act amendatory thereof shall on or before the 31st day of June, 1908, execute and file with the secretary of State a release, surrender and waiver of such

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exemption, then and in that event the provisions of this act shall not be held to apply to and shall not in any wise affect any such corporation; and every such corporation which shall on or before the said 31st day of June, 1908, execute and file with the secretary of State the release aforesaid shall be entitled to have, use, exercise and enjoy all the rights, privileges and advantages which it is now entitled to use, exercise and enjoy under any special or general act of this State, anything in this act contained to the contrary thereof notwithstanding.

SECTION 4. And be it enacted that if any corporation entitled to any exemption from taxation in this State by its charter or by any act amendatory thereof passed prior to the time the constitution of 1851 of this State went into effect shall after the 31st day of June, 1908, accept, use, enjoy or in any wise avail itself of any rights, privileges or advantages granted or conferred by any general or special or local act passed since the constitution of 1851 of this State went into effect, then and in that event every such corporation shall be conclusively presumed to have thereby surrendered any exemption from taxation to which it may be entitled under its charter or under any act amendatory thereof, and shall thereafter be subject to taxation as if no such exemption had been granted.

SECTION 5. And be it enacted that all acts and parts of acts in conflict with the provisions of this act be and the same are hereby repealed in so far as they conflict with the provisions of this act.

Charles M. Armstrong, of Baltimore City: I move the report be received.

The motion was adopted.

The President: There is a Special Committee to report on the Torrens Land System; Moses R. Walter, Chairman. That report is now in order.

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REPORT OF COMMITTEE ON TORRENS LAND SYSTEM.

To the Maryland State Bar Association:

The Committee appointed March 28, 1907, to consider the advisability of adopting, in this State, the judicial system of the registration of titles to land and of regulating subsequent transfers or claims affecting the title under what is known as "The Torrens Land System," respectfully reports:

The Torrens System was first adopted in South Australia. It takes its name from Sir Robert Torrens, by whom the scheme was devised and the first law embodying its principles was prepared, and through whose efforts it was enacted into law, and by whom it was carried into operation. It met with so much success, that its adoption in other of the English colonies soon followed, and it now prevails in South Australia, West Australia, Queensland, Victoria, New South Wales, Tasmania, New Zealand, British Columbia, Manitoba and Ontario. After many years' experience in her colonies, the British Government has adopted it for the city of London, and made it compulsory. The Torrens System has also been adopted and now exists in the States of Illinois, California, Massachusetts, Washington, Oregon, Montana, Minnesota and Colorado, and has been introduced by the United States Government in the Philippines, Hawaii, and Porto Rico. The matter has also been agitated in other States of the Union, and like acts have been introduced in the legislatures of New York and Virginia, but have thus far failed to pass. The bar associations of at least nine States have also endorsed the system. It was also adopted in Ohio, but the act was declared unconstitutional, and in 1898 was repealed. The constitutionality of the Illinois, Massachusetts, Minnesota and California

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acts has been upheld. Registration under the laws of the States above mentioned, in this country, is voluntary, and there has been, so far as the Committee has been able to learn, but little or no registration in the said States, other than in Illinois and Massachusetts.

The principle of the Torrens System is the registration of the *title to land* instead of the registration of the *mere evidence* of title. Under it the ownership of the land is judicially determined, and when so determined, is intended to be final and binding on the whole world. Its declared object "is under governmental authority to establish and certify to the ownership of an absolute and indefeasible title to realty and to simplify its transfer." A fund for the indemnification of any one injured by the operation of the law is usually provided for, created by a tax of about one-tenth of one per cent. on the assessed value of each piece of the land registered, payable at the time of its registration.

To obtain such judicial determination and registration under the laws in force in this country, the usual procedure is for the owner of an estate or interest in the land, desiring registration, to file his application for that purpose in a court of competent jurisdiction, which, after notice, actual or constructive, to all persons concerned, and after such other steps as the act may require, after a hearing, or upon default, as the case may be, proceeds to the passage of a decree. This decree, subject within a limited time, to the right of appeal, and to the right of intervention by those who have not been actually served with notice, and who have not voluntarily appeared, is intended to be final and binding on every one. A registrar for the registration of titles, for whose appointment the laws also provide, then prepares a certificate or official register, setting forth the applicant's interest as adjudicated, which is bound into a record book, and a duplicate thereof issued to the applicant. Sufficient space is left for entering on both the original

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and duplicate a description of the property, and a short description of any charges, mortgages or encumbrances of any kind to which the land is then, or may become, subject. Thereafter the title to the land cannot pass except by an entry on such register of the name of the transferee, and by the issue to him of a new certificate on the surrender to the registrar of the old one. Mortgages and all other liens or matters affecting the land must likewise be noted on the official register. Mortgages and other liens created by agreement being required to be also noted on the duplicate. The exact condition of any title to a piece of registered land may thus at any time be ascertained by the simple examination of the official register, and a transfer without any of the delay or expense attending the present system can be effected. Such a system, if practical in its operation, and if free from constitutional and other legal objections, requires no argument to commend it.

The Committee has read much of the literature on the system, and has examined several of the acts now in force in the United States and the acts introduced in the Virginia and New York legislatures. It has also carefully considered the Illinois, Massachusetts, Minnesota and California decisions upon the validity of the laws of those respective States as well as briefs of counsel in two of them, and other literature upon that question. They have also to a limited extent ascertained by correspondence and otherwise the practical operation of the laws now in force in several of the States. It has had a number of meetings, when the subject in its various branches was fully discussed and considered, and at one of them was favored by the presence of Eugene C. Massie, of the Richmond (Va.) Bar, one of the best informed and strongest advocates of the system and one of the most active of those urging the passage of the Virginia statute, to whom the Committee is indebted for much valuable information and advice. The Committee is unanimously of opinion that the system now in vogue in

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this State, because of its uncertainties, delays, repetitions, waste of time and expense, should, if practicable, be displaced by one less burdensome and more adequate and efficient, and the principle of the Torrens System has its unqualified approval. It is, nevertheless, not prepared to submit any specific conclusions or recommendations as to the adoption of the Torrens System in this State, as it has not been able in the comparatively short time since its appointment, and with the other engagements of its members, to sufficiently inform itself of its practical operation elsewhere in the United States, or to come to a definite conclusion as to the freedom from constitutional objections, both in the initial registration, and in subsequent dealings with the land, of a law which it would consider adequate to accomplish the objects of the system. The system has unquestionably worked satisfactorily in England and in her colonies, but the constitutional limitations on legislation in this country present difficulties with which they have not had to contend.

The Committee therefore recommends that it be continued, and that it be authorized, if in its judgment, an adequate and constitutional Torrens law can be framed, to draft an act for voluntary registration, to be submitted to the next session of this Association.

M. R. WALTER, *Chairman.*

The President: What is the pleasure of the Association in regard to the report just submitted?

Henry J. Broening, of Baltimore City: I move the report be received and the Committee continued as suggested therein.

The motion was adopted.

Eugene O'Dunne, of Baltimore City: I came down, as I suppose most of the other members did, for physical relaxation as well as mental improvement. It seems a pity to me to adjourn a session of this kind, where intel-

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lect is running over, without some discussion of the grave constitutional question suggested by the Attorney-General. The gentleman from Somerset says, Who ever heard of discussing offhand a paper as soon as it was read? If that question is asked as a general question, applying to any paper which may be read, it seems to me that the answer to it is that every member of the Association has heard of it; it was put on the program that it would be done and made the special order of business to come at this time. While I am not in favor of the Association endorsing all that has been said in reference to the matter, because some of it is political in its nature, yet it does seem to me—

The President: I do not like to interrupt you, but there is no motion before the house.

Eugene O'Dunne: I am about to get one before the house. I move that we return to the order of business, the regular order of business, which is the discussion of the paper of the Attorney-General; and if the Chair will put that motion and give me the floor I would like to say another word about the matter.

John Phelps, of Baltimore City: I second the motion.

The question was put and decided in the negative.

Frank G. Turner, of Baltimore City: Before the meeting adjourns and in view of the fact that the Committee on Grievances is not ready to report, I would like to say that the Treasurer has a grievance to which he would like to call the attention of the members. There are four members present who owe dues for four years which they promised to pay up. There are other members present who owe somewhat smaller amounts, there being over a hundred members who owe for the past year. My clerk is present, and if you will call on him he will be glad to give the official receipt on the payment of dues.

On behalf of the Committee on Arrangements I would like to say that the management of the hotel would like

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to know as soon as possible how many expect to attend the banquet on Friday night. The Committee asks that you get your ticket for the banquet if you expect to be present. Your prompt attention to this matter will be appreciated almost as much as if you pay your dues.

The President: I desire to make some brief announcements. There are a number of printed reports here which we ask the members to examine. I desire the Executive Council and the Committee on Judicial Administration and Legal Reform to meet immediately after the adjournment at room 105.

The situation before the Association now, so far as business is concerned, is as follows: We have a postponed report of the Committee on Nominations; also a postponed report of the Committee on Grievances; a postponed amendment to Articles IV, X and XIII, of the Constitution.

Now these matters have no place particularly designated for them on the program and the Chair suggests that some one move that they be taken up in their order immediately after the close of Mr. Meldrim's address tomorrow.

William S. Bryan, Jr., of Baltimore City: In order to facilitate matters I will make that motion.

The motion was adopted.

On motion the Association adjourned until July 4th, at 11 o'clock A. M.

MORNING SESSION.

JULY 4, 1907.

The President: The first business in order is an address by Peter W. Meldrim, of Georgia, on "Respect for the Bar." I now have the pleasure of introducing to you Peter W. Meldrim, of Georgia.

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RESPECT FOR THE BAR.

By Peter W. Meldrim, of Georgia.

Mr. President:

When I accepted the very courteous invitation of the Maryland State Bar Association to speak on this occasion, I naturally sought for an appropriate subject upon which I might venture to address you.

I sought neither far nor long; for the high character and eminent ability of the Maryland bar was full of suggestions. I could not forget that the learned lawyer and accomplished orator, William Pinkney; the great brained Luther Martin; the ever graceful and persuasive William Wirt; the erudite Reverdy Johnson; and Roger B. Taney—that judge who, at least, is entitled to share with Marshall the lofty title of the great chief justice—were members of the bar of Maryland. Such a bar is entitled to respect, and, recalling recent utterances reflecting upon the American bar, I have selected for the subject of this paper:

"Respect for the Bar."

I shall not, out of high regard for the office of the chief executive, criticise his utterances; except to say that, when the executive sees fit to condemn a judge, because a decision, rendered in due course and after full argument, is not grateful to governmental policy, he acts in disrespect of the law and in encouragement of a subservient judiciary, the most insidious and, at the same time, the greatest foe there can be to the good order, peace and dignity of the Republic. For over two hundred years, the English judges have been free from the control of interference of the crown or parliament; and evil indeed will be the day, when an American

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judge shall be persuaded, influenced, directed, coerced or intimidated by the smiles or frowns of power. I commend the words of England's Queen at the opening of the Royal Courts of Justice: "The independence and learning of the judges, supported by the integrity and ability of the other members of the profession of the law, will prove in the future, as they have in times past, the chief security for the rights of my crown and the liberties of my subjects."

I shall not criticise the utterances of another gentleman prominent in public life, save to say that the opinion of one, who has abandoned wholly his profession of the law to dabble in the muddy waters of politics, is seldom worthy of serious consideration. Such sounding sentences as "I believe the day will come in this country when we will not have so many men who will sell their souls to make grand larceny possible," and, "Perhaps some time it will be less disgraceful for a lawyer to assist in a gigantic robbery than for a highwayman to go out and hold up the wayfarer,"—are highly creditable to a phrase-maker, but are not at all suggestive of either accuracy of observation or fairness of statement.

There have, however, been certain dicta from Mr. Justice Brewer, which must give us pause. In a recent address before the Society for Ethical Culture, the learned justice is reported as saying: "The old idea that a lawyer must be all his client wishes is passing away. He has no right to barter his own integrity, to sell his honor or his conscience. A lie has no place in court. A verdict won by a falsehood is a disgrace."

The clear implication from this language is, that such an idea had prevailed generally at the bar, and that lawyers were accustomed to barter their integrity, sell their honor and conscience, lie in court, and win verdicts by falsehoods. The learned justice could not have meant this and, with the utmost respect, he should not have said this. There never was a time at the English-speaking bar, when the lawyer was all the client wished him; when he bartered his integ-

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rity, sold his honor and his conscience and lied that he might win a verdict. That there have been disreputable lawyers goes without saying; but as well might the learned justice have denounced as traitors our patriot sires who made this day possible, because Benedict Arnold was a traitor; or as corrupt and infamous the judges of his own high court, because Bacon was corrupt and Jeffreys infamous.

I take it that these utterances, and others of like character, indicate a disrespect for the bar. It is a duty which we owe to ourselves to resent these imputations, and by our walk and conduct to merit, demand and receive for the bar the respect due to it.

I apprehend that the criticism should be directed rather at the administration of justice than at the law itself, or at the practice of the law. The practice of the law is the embodiment of the soul of the law into the flesh and blood of humanity; for it is in the practice at the bar, that the law finds its expression; and the rules of administration bend or yield not, break or give not, prove useless or well adapted to their purpose, as may be determined by the actual practice in the courts. It is unthinkable that the law should be the subject of unfavorable criticism. The student of classical literature will recall the reverence of the Greeks for the law; how upon a lofty terrace, surrounded by a consecrated grove and overlooking the ancient Greek city of Rhamnus, there stood two temples of white Pentelic marble, erected to the worship of Themis and Nemesis.

To me, this picture has always been an interesting one; not because of the beautiful temples, or the consecrated grove, or the many-voiced sea; not because of the ships in the port, or the sailors who manned them, or the busy streets, or the city's turmoil; but because an active, intelligent and commercial people could turn from their affairs of peace or war and do reverence to the law.

The Greeks united a complete subordination to established authority with a high sense of personal independence, and we can understand how this may have been true when we

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reflect that Zeus, lord of all, clothed with supreme dignity and authority, was the guardian of the law and the protector of justice and virtue. It is a beautiful fable that Zeus had for his wife and truest counselor, Themis, the source of law:

> "Let no man value at a little price
> A virtuous woman's counsel."

It was this respect for law that filled the Greek soul and inspired the inscription on one of the monuments at Thermopylae: "Go stranger and declare to the Lacedaemonians that we died here in obedience to their divine laws."

Burke says of the law: "It is one of the first and noblest of human sciences, a science which does more to quicken and invigorate the understanding than all the other kinds of learning put together, a science which is the collected reason of ages, combining the principles of eternal justice with the infinite variety of human concerns."

Dr. Johnson says: "Law is a science in which the greatest powers of the understanding are applied to the greatest number of facts."

"The law is good, if a man use it lawfully."

At all times and under every system of law, there has been more or less dissatisfaction with the administration of justice. The causes of this dissatisfaction may be fairly ascertained, and to a great extent may be remedied, but neither these causes, nor their remedies, are germane to the precise issue which I am discussing. I take it for granted, that the dissatisfaction in the public mind is not with the abstract law, but it is with its practical administration, and for all practical maladministration the bar is being held responsible. I propose to demonstrate the proposition that the uncertainties and delays of the law and the miscarriages of justice are not fairly chargeable to the bar.

In the very nature of things, facts precede law, and new facts, as well as new combinations of facts, are constantly arising out of our modern complex conditions; conditions

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never dreamed of by the common law, not covered by existing statutes, and not decided by adjudicated cases.

The vast changes, that have been wrought within the memory of living men, make the truths of today stranger than the fables of antiquity. We travel now from Joppa to Jerusalem by steam. We telegraph or telephone to our friends at home and cable to those beyond the seas. We no longer ride in the one-horse chaise, or the old stage coach, but in palace cars or automobiles. Fulton's Clermont has become the Adriatic. The rude bridge of wood or stone is replaced by one like that over the Firth of Forth. The spinning-wheel has developed into the modern factory, with its thousands of spindles, its army of operatives, its stupendous power of corporate wealth. The agricultural chemist has restored the worn-out soils. The hydraulic engineer has made fertile the arid lands. The mechanical engineer, by a thousand forms of labor-saving machinery, has enabled the "man" to throw away the "hoe," and to stand erect, in the image of his Maker. The village water-wheel has become Niagara chained, and the tallow dip is lost in electric glory. The stylus has been succeeded by the typewriter, the printer by the Mergenthaler Machine, the hand press by Hoe's Octuple. The mad rushing train is stopped in an instant by compressed air, and we no longer fret the marble with the sculptor's chisel, but summon the same wizard of the air to do our bidding. The possibilities of this power, compressed or liquid, reach far beyond reason's ken, or imagination's vagrant fancy. Anesthesia, the Roentgen ray and antiseptic surgery, together with a knowledge of the laws of hygiene and sanitation, have minimized pain and suffering and have increased the duration of human life. To such a degree of perfection has science attained that we can get from the laboratory an egg or a beefsteak, a ruby or a diamond. From the waste products of the gas retort come the most delicate colors, the perfume of flowers, the flavor of fruits. It is a far cry from the bows and arrows of our ancestors to the high

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explosives, the smokeless powder, the Krags and the Mausers of today; from the war galleys of Diodorus Siculus to the modern battleships of Schley and Dewey. It is a far cry, indeed, from Morse to Marconi.

Uncertainty of the law is not due to the practicing lawyer. The bar is doing its full duty. By the aid of stenography, typewriting, prompt and accurate law reporting and ready access to libraries, we are relieved from much of the drudgery incident to the office; while greater simplicity of pleading and brevity of speech afford us more time for study and investigation, with the result that the work of the bar is becoming almost mathematically certain. The vice consists largely in the fact that, with the pressure of work in the appellate courts, little time is allowed for thorough argument, decisions are necessarily delayed, and the blame is laid upon the bar. This blame should not attach to the bar, but to the chief executives, State and Federal, to the legislatures and to the people, for, as a rule, lawyers of ability, learning, experience, industry, integrity and administrative capacity are not elevated to the bench. Too often is it that judicial preferment is a reward paid by the executive for personal political favors, by the legislature for skillful manipulation; and by the people for successful practice in the arts of the demagogue. It is surprising, take it all in all, with the uncertainty of judicial tenure, the meagerness of salary, and the methods by which appointments or elections are secured, that so high a standard of judicial rectitude and ability has been maintained. An able judge, wise and great, who has the courage of his convictions and does not hesitate to express them is an inspiration, and a living, breathing embodiment of the law. Be the causes what they may, it must be conceded that the American judges do not measure up to the standard of their English brethren, and it seems that the view expressed by Sir Frederick Pollock, whom some of us remember with so much pleasure, is the correct one. He says, in one of his Oxford lectures: "The judges have not been a special

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branch of the profession, but selected under an efficient criticism of skilled opinion from the profession at large." In a word, the failure to exercise skilled opinion in the selection of American judges is, in large degree, the cause of the inefficiency of the bench, necessarily resulting in crude and undigested decisions, with all the evils of uncertainty, delay, expense and frequent reversal.

It may be said that the judges are not to blame, but that the legislature should be held responsible for the uncertainty of the law and the law's delay. This is true in large part. Neither the American Congress, nor the State legislature, can, with propriety, be called deliberative bodies. The Federal statutes and the acts of the several States are full to overflowing with slipshod, conflicting, unwise and unconstitutional legislation; but, as the bar is not responsible for the selection of the judges, so it is not chargeable with the errors of legislation. That there are many lawyers in Congress and in the State legislatures is true, but it is equally true that, as a rule, they are not the hard-working, conscientious toilers at the bar; they are not the men who love the law, but they are rather of that more brilliant and favored class who use the law as stepping stones to political power.

It may be asked why has not the bar, with the vast power it exerts, done something to reduce the almost infinite number of statutes and decisions, and to relieve against uncertainty and delay. I answer that the work of law reform in this country and in England has been accomplished by earnest and self-sacrificing lawyers. There we find Bentham, Romilly, Brougham, Landale, Macintosh, all lawyers,—all law reformers. Here we have David Dudley Field, Edward Livingston and the commissioners from the several States giving, without money and without price, their best talents to securing uniformity of law in marriage and divorce, wills, deeds, negotiable instruments, sales, warehouse receipts and the like.

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Much of the uncertainty of the law and delay in its administration can be avoided by reducing it, as far as possible, to the form of a statute. The Code of Justinian was perfected in less than four years. Trebonian, with a staff of seventeen lawyers, reduced, in three years, three million sentences to one hundred and fifty thousand. A commission of twelve lawyers delivered the report on the Code Napoleon in four months. The American bar has urged in season and out of season a codification of the Federal statutes. Years have passed since a commission was appointed for that purpose. I shall not discuss why the work has not been done, or, if done, why it has not been enacted by Congress. It is sufficient for my argument to show that the American bar is earnest and persistent in its effort to simplify the law, and to avoid uncertainty and delay. No greater work than the simplification of the law can command the brain and heart of the patriotic lawyer. No work brings more fame, or confers more permanent benefit. We never turn to Jewish history but that we see the stately figure of the lawgiver, Moses. We never think of Greek arts or arms, but there appear Solon and Lycurgus. We remember Justinian and forget Rome's great captains, and the glory of the Code Napoleon will live after the sun Austerlitz shall have sunk beneath the horizon of man's memory.

There is no greater popular fallacy than that the lawyers are responsible for uncertainty and delay in the law. The trial of causes forms but a very small part of the work of the modern lawyer. Today he is largely the adviser. To know the law with certainty is of the first importance to him. An opinion given without the necessity of laborious investigation is, if it be correct, as valuable to a client as one upon which there has been expended days of research and thought. So that, even if the practicing lawyer were prompted by no higher motive than self interest, yet it is manifestly to his advantage to have the law certain. And so it is with avoiding delay. A cause is prepared for trial. We stand ready to try it. If it be continued, the same work

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of preparation has to be gone over again, not perhaps with as much time and labor, but still we have to go over it. For this subsequent preparation and for this delay, most vexatious to the busy lawyer, there is no additional compensation. It is, therefore, largely to his pecuniary interest to try and dispose promptly of his cases in court. When they crowd upon him, he does poor work. He is anxious, over-wrought, fagged, and has not that perfect control of body, mind, emotions, sensibilities and passions so necessary to enable the advocate to try successfully great causes, and to take pleasure in trying them.

Assuming that it is satisfactorily shown that the bar is not chargeable with the alleged uncertainty and delay of the law, and that there is no disrespect felt for the abstract law, the question naturally arises: To what have the shafts of criticism been directed? Surely, it cannot be against the profession of the law. The votaries of one of the "noblest of human sciences" cannot be condemned simply because they are lawyers. Such condemnation would be absurd. The world owes too much to the lawyers to make them as a class the subject of unfavorable criticism. By their fruits we shall know them. From Demosthenes arousing the Athenians; from Cicero driving from the capitol the traitor Cataline; from Patrick Henry inflaming the colonists; from Thomas Jefferson writing the Declaration of Independence; down to—

> "That best portion of a good man's life—
> His little, nameless, unremembered acts of kindness and of love"—

the lawyers have done their duty.

Broadly stated, no constitution guarding the sacred right of human liberty can be ordained, no treaty regulating the intercourse of mighty nations can be entered into, no charter conferring great powers and privileges can be granted, no contract can be made, no agreement signed, no conveyance executed, no testament probated, no estate administered, no rights given, no wrongs redressed, no torts compensated,

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no action brought or defended, and no crime punished, save by the lawyer's skill and learning. All persons, natural and artificial, trust him. It is rare that the confidence is misplaced. Why then this hue and cry?

I take it that politicians courting popular favor denounce certain interests, and incidentally condemn the lawyers who represent those interests. Let us see if we can state the case: There are mighty combinations of capital, these are believed to be fraught with danger to the State; both political parties demand legislative action; various acts seeking to prevent these combinations, or to restrict them in their operation, have been passed; lawyers represent these combinations, and it is alleged that these lawyers "sell their souls to make grand larceny possible"; they "barter their own integrity"; they "sell their honor and their conscience." From these particular instances, the criticism opens to take in a class, or many members of a class. I deny that these averments can be maintained against any considerable number of the bar. I admit there are a few lawyers of bad character, just as there are bad men in every other profession, but it is not true either that a lawyer is corrupt when he represents great interests, or that the American bar is becoming unworthy of the confidence and esteem of the American people. The greater and more complex the interests involved, the greater is the necessity for the most eminent counsel to direct and guide those interests. There can rest upon the really able, honorable and courageous lawyer no higher duty than to defend corporate rights. In this country individuals are safe. They receive through legislation and in the courts, to say the least, their just dues. The danger is not to private rights; the wrong to be apprehended is to corporate rights. A lawful combination is one thing; and unlawful combination is another and quite a different thing. But whether a combination is lawful or unlawful is generally a close question of law and fact, and the defendant, whose very existence is threatened, whose property is to be taken, whose operations are to be restricted,

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and whose officers are to be imprisoned, has a right to be represented by counsel in a fair and impartial trial, by an intelligent and unprejudiced jury and before an upright and independent judge. Every man, guilty or innocent, every corporation, lawful or unlawful, has the right to be heard in his or its own defense, and this right will be preserved in this country as long as the American people respect the law and the American lawyer respects himself. The true measure of a people's greatness is their respect for the law.

All things, physical, mental and moral, are combinations. The waters of the ocean, the sands of the shore, the great mountains and the forests that crown them, the lowly valleys with their ripening grain, the earth and its treasures, and the heavens and its starry bodies are but combinations. The simplest handiwork of man and the greatest of human endeavors are resultants of many forces. No thought exists dissociated from every other thought, and no emotion is felt that is not associated with other emotions. All life is a conflict between combined powers and, when the field of conflict is the forum, be the causes and contestants what and who they may, it will be the duty of the American lawyer to defend his client's cause as he should his country's and to serve his client's interests as he would his own.

To maintain the respect due to the bar we should continue to insist, as we are now insisting, that admission should only be granted to those whose character, education and talents fit them to become useful members of the profession. Over and above all, there should exist between bench and bar that accord without which there can be no administration of justice. Courtesy, from counsel to counsel and from counsel to court, is no more important and is no more essential to the proper trial of causes, than is courtesy from the bench to the bar. Disrespect from counsel to the court is vulgar and punishable; disrespect from the bench to the bar is contemptible and cowardly. And the same respect should be shown to the humblest witness or party. If we wish to inspire respect for the bar, we, as lawyers in our daily walk

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and conduct, in our offices, in the trial of causes, and in public station, must respect ourselves.

The law is a profession, not a trade, and success in it consists in more than money-getting. The personal interest of the lawyer should be merged in the welfare of his client, and every honorable effort should be made to avoid unnecessary litigation. If litigation results, then it is war, but honorable war, and in its conduct the true lawyer, the man who deserves success, must face with a high courage every danger. The frenzy of the mob should not deter him from doing his duty as he understands it, and judicial arrogance should not overawe him into a servile submission to erroneous ruling or decision. He should be bound by no fetters of gold, blinded by no prejudices of creed or party, but deaf to all cries of ignoble self-interest, he should ever be the loyal lover of his jealous mistress, the law. He should bear reverses with fortitude and receive success with modesty. He should remember that a good cause requires no abuse of the other side, and that a bad one is not helped by it; that violence of gesture is not grace, and loudness of voice is not eloquence, that dogmatic assertion does not convince, and vituperation does not persuade.

> "And indeed he seems to me
> Scarce other than my own ideal knight,
> Who reverenced his conscience as his king;
> Whose glory was, redressing human wrong;
> Who spoke no slander, no, nor listened to it;
> * * * *
> Wearing the white flower of a blameless life."

That lawyer alone brings respect to the bar who, "with high erected thoughts seated in the heart of courtesy," "with malice towards none, with charity for all, with firmness in the right as God gives him to see right," with clear brain and pure heart, with high and noble purpose, with labor that feels no weariness, and courage that knows no

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faltering, guards every cause entrusted to him as sacredly as he does his own fair name.

May I recall to you the words ascribed by Tennyson to Pallas:

> "Self-reverence, self-knowledge, self-control,
> These three alone lead life to sovereign power.
> Yet not for power (power of herself
> Would come uncall'd for), but to live by law,
> Acting the law we live by without fear;
> And, because right is right, to follow right
> Were wisdom in the scorn of consequence."

L. Allison Wilmer, of La Plata: I move that the thanks of this Association be given to Mr. Meldrim for his eloquent and stimulating address.

The motion was unanimously adopted.

The President: According to the motion made at the conclusion of yesterday's session the first matter to be taken up this morning after the address of Mr. Meldrim is the report of the Committee on Nominations. I now call for that report.

James E. Ellegood, of Salisbury: I submit the following report of the Committee on Nominations:

REPORT OF THE COMMITTEE ON NOMINATIONS.

To the Members of the Maryland State Bar Association:

The Committee on Nominations report that they have nominated the following named persons as officers of the Maryland State Bar Association for the years 1907-8:

For President:

L. Allison Wilmer, of La Plata.

For Vice-Presidents:

CIRCUIT.

First, Robley D. Jones, of Snow Hill.

Second, Edwin H. Brown, Jr., of Centreville.

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CIRCUIT.

Third, N. CHARLES BURKE, of Towson.
Fourth, M. L. KEEDY, of Hagerstown.
Fifth, F. NEAL PARKE, of Westminster.
Sixth, EDWARD C. PETER, of Rockville.
Seventh, J. BRISCOE BUNTING, of Prince Frederick.
Eighth, WILLIAM S. BRYAN, JR., of Baltimore.
Eighth, WALTER I. DAWKINS, of Baltimore.

For Secretary:

JAMES U. DENNIS, of Baltimore City.

For Treasurer:

FRANK G. TURNER, of Baltimore City.

For Executive Council:

WILLIAM W. BECK, of Chestertown.
ARTHUR D. WILLARD, of Frederick.
JOSEPH C. FRANCE, of Baltimore City.
EDWIN G. BAETJER, of Baltimore City.

John P. Poe, of Baltimore City: I move that the report be received.

The motion was adopted.

The President: New business is now in order.

Alfred S. Niles, of Baltimore City: I ask unanimous consent to introduce a motion which, perhaps, would not be strictly in order at the present time. In the midst of so much that has been most pleasant and satisfactory, stimulating and instructive, there has been to my mind just one note that was a little jarring, and that was the reception of the report of the Committee on Legal Biography containing sketches of some of our deceased members. When that report came in it was received without its being read or without any action taken in regard to its being read. I very well appreciate that in the judgment of the Committee who arranged the program, it was deemed very possible that to read so many notices, or tributes, would interfere with the business of the Association, and for that reason, when the program

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was made up, it was no doubt thought wise to take the position that was taken by the Committee and simply ask leave to print. But it does seem to me that now, while we are down here, when we are not oppressed with weighty matters and do not have to be at our desks transacting business, it does seem to me that it is rather a meagre tribute to our deceased friends to have the report of the Committee treated in the way in which it has been treated, and it is because it did strike that note to my mind, that I have referred to as being a jarring note, that I thought I would take this opportunity to say, if it did strike other members of the Association in the same way, we might take some action looking to a more fitting reception of that report of the Committee on Legal Biography.

On looking over the program I find that neither for this evening nor for tomorrow afternoon is there anything fixed, no order of business for the Association, so that my suggestion is that either this evening or tomorrow afternoon, as the Executive Committee may find most convenient, there be memorial services held in memory of our deceased members at which services the report of the Committee on Legal Biography may be read in full to those of us who care to spend the time in that way. I I understand it will take about an hour, certainly not very much more.

Therefore, in order to bring the matter before the Association in some concrete form, I would move that such memorial services be arranged for by the Executive Committee to be held either this evening or tomorrow afternoon as may be most convenient.

The President: Why not make the formal motion now.

Alfred S. Niles: I make the motion that we hold such a memorial meeting this evening at 8 o'clock.

Joshua W. Miles, of Princess Anne: I second the motion.

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Richard Bernard, of Baltimore City: On behalf of the Committee on Legal Biography, of which I happen to be a member, I desire to say that question was fully considered by the Committee. The papers this year are quite numerous and the reason for that is, I think, we took up some of the work left by the Committee of last year. I think there are eleven or twelve sketches. We talked over the matter of reading these sketches and thought that perhaps the Association might get out of patience if they had to listen to all of them, and then we thought of reading a portion, but gave that up as it might be considered discrimination. We, therefore, concluded to simply submit the report in the manner in which we have done, giving a list of the deceased members.

L. Allison Wilmer, of La Plata: As a substitute I move the matter be referred to the Executive Council.

The substitute motion was adopted.

George Whitelock, of Baltimore City: I would like to offer a brief resolution, if it be in order, under the head of "New Business."

"*Resolved,* That the Secretary be, and he is hereby directed to extend by wire to the Honorable James McSherry the affectionate personal regard of the members of the Association for him; their regret that his recent illness has prevented his attendance upon this meeting; their cordial congratulations on his convalescence, and their profound hope that he may be able speedily to resume the discharge of his official duties as Chief Judge of the Maryland Court of Appeals."

The resolution was adopted.

Walter I. Dawkins, of Baltimore City: I do not know whether it is in order or not, but I desire to move that Article IV of the Constitution be amended by adding these words: "Nor shall it apply to members of the bar of

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any county or city having a Local Bar Association which has not held a meeting for two years."

The President: That amendment has the approval of the Executive Council.

James U. Dennis, of Baltimore City: I would like to second the motion and state the reason for this amendment being suggested and for its being approved by the Executive Council. It seems, without this amendment, no persons, except judges, can become members of the State Bar Association, unless they be members of the Local Bar Association of the county or city wherein they reside. I am informed that in some of the counties of this State there are Local Bar Associations which have not held meetings for a long time, and while such an Association exists it is not possible for any person residing in such county to become a member of the State Bar Association until he joins the Local Association, although it is entirely inactive and has not held meetings for a number of years and has practically been abandoned. In order to avoid this difficulty the amendment is offered.

Harry E. Mann, of Baltimore City: One great difficulty about this amendment, if adopted, would be that it would put a great burden on the Committee on Admissions. That Committee have considered this matter very fully and, as embodied in our report, we came to the conclusion that there really was no reason for the provision in the Constitution to apply to the counties of the State, but the amendment, proposed by the Executive Council, puts an immense burden on the Committee on Admissions. In some cases I do not see how that Committee is going to verify the facts one way or another.

Henry J. Broening, of Baltimore City: I do not think that we ought to open the door so wide in favor of counties with inactive Local Bar Associations where there are restrictions on other localities. Admission into this Association ought to be restricted for the purpose of

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enlivening such inactive Associations. We ought to act with great care on such an amendment as this, and do all that we possibly can to stir into activity such Local Bar Associations as are now inactive. I think it will have a bad effect if we open the door in the way this amendment suggests.

L. Allison Wilmer, of La Plata: I will endeavor in a very few words to try and explain the matter, as it was explained to me yesterday afternoon. I think the language of the resolution is plain enough. Attention has been called to one particular case, and I think there is another, where there is a Bar Association, but it is inactive. I understand that there are other cases where such Associations have fallen into innocuous desuetude. Take a concrete case of a Local Bar Association which has been inactive for years and there have been no proceedings of any sort by the Attorney-General, by *quo warranto* or otherwise to put it out of existence, and it is still deemed to exist, although no meetings are held—it simply exists. Not having held meetings it cannot elect members. Whether they abstain from holding meetings for the purpose of keeping some members of the bar out of the Association or not, I do not know. Take another concrete case. There is a lawyer, who has been somewhat in the public eye, who lives in a locality where there is an inactive Local Bar Association, and who, I understand, is most anxious to join his Local Bar Association, but he cannot get in because it holds no meetings. Now is it fair to keep out such a man from our Association, when he is anxious to become a member, simply because he lives in a locality where there is an inactive Local Bar Association which does not hold meetings? Let us take the case of some one who is just out of the law school and lives in a locality where the Local Bar Association has not met for four years, and who desires to become a member of his Local Bar Association in order that he may become a

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member of the State Bar Association. Is it fair to keep such a young man out of this Association on that account? As the Constitution now stands he cannot be admitted to this Association. I say, for myself, I am rather in favor of opening the door wide.

Eugene O'Dunne, of Baltimore City: The logical effect of the argument to defeat the motion will be to make active the inactive Local Bar Associations. I am not sure they ought to be made active. I am opposed, however, to having any desirable person shut out from this Association. That being so I am heartily in favor of the motion.

After being inoculated by the paper read by John S. Wise on "Centralization by Construction" in regard to central bodies undertaking to regulate local bodies, State or county, it might not be well or wise to undertake the supervision of the Local Bar Associations of the counties.

The vote on the question was then taken and the amendment to Article IV of the Constitution was adopted.

Clayton Purnell, of Frostburg: I offer the following resolution:

"*Resolved,* That the Constitution and By-Laws of this Association be amended by changing the name of the Committee on Judicial Administration and Legal Reform, wherever it occurs, to the Committee on Laws."

This change is simply made in the interest of brevity, and is recommended by the Executive Council.

The resolution was adopted.

James U. Dennis, of Baltimore City: At the request of the Executive Council I offer the following resolution which has been approved by them: This resolution is an amendment to Article XIII of the Constitution which refers to the Committee on Legal Biography.

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The amendment changes the last line and its effect is simply to require obituary notices of members of the Association and not generally of the Maryland bar.

"*Resolved,* That Article XIII of the Constitution of this Association be amended so as to read as follows, viz: 'The Committee on Legal Biography shall provide for the preservation, among the archives of the Association, of suitable written or printed memorials of the lives and characters of deceased members of this Association.' "

The resolution was adopted.

On motion the Association adjourned until 3 o'clock P. M.

AFTERNOON SESSION.

JULY 4, 1907.

The President: The first business in order is a paper by Isaac Lobe Straus, of Baltimore City, entitled "Some Suggested Changes in the Constitution of Maryland."

SOME SUGGESTED CHANGES IN THE CONSTITUTION OF MARYLAND.

BY ISAAC LOBE STRAUS, OF THE BALTIMORE BAR.

There are few better illustrations of the deep and lasting influence exerted by Mr. Jefferson upon the people of the United States than the fact that many of his opinions, expressed merely in his personal correspondence, have not only passed into their accepted maxims of government, but have been embodied in permanent form in their written Constitutions. His theory of the length of the natural life of

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political Constitutions is an example in point. At one time he was of the opinion that "every Constitution and every law naturally expires at the end of thirty-four years." Subsequently he shortened this period. On July 12, 1816, more than seven years after his retirement from the Presidency, writing from Monticello to one of his friends, he said:

"Some men look at Constitutions with sanctimonious reverence, and deem them like the Ark of the Covenant, too sacred to be touched. They ascribe to the men of the preceding age a wisdom more than human, and suppose what they did to be beyond amendment. I knew that age well; I belonged to it and labored with it. It deserved well of its country. It was very like the present, but without the experience of the present; and forty years of experience in government is worth a century of book reading; and this they would say themselves, were they to rise from the dead. I am certainly not an advocate for frequent and untried changes in laws and constitutions. I think moderate imperfections had better be borne with; because, when once known, we accommodate ourselves to them, and find practical means of correcting their ill effects. But I know also, that laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths disclosed, and manners and opinions change with the change of circumstances, institutions must advance also, and keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy, as civilized society to remain ever under the regimen of their barbarous ancestors. . . . Let us provide in our constitution for its revision at stated periods. What these periods should be, nature herself indicates. By the European tables of mortality, of the adults living at any one moment of time, a majority will be dead in *about nineteen years.* At the end of that period then, a new majority is come into place; or in other words, a new generation. Each generation is as independent of the one preceding, as that was of all which had gone before. It has then, like them, a right to choose for itself the form of government it believes most promotive of its own happiness; consequently, to accommodate to the circumstances in which it finds itself, that

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received from its predecessors; and it is for the peace and good of mankind, that *a solemn opportunity of doing this every nineteen or twenty years should be provided by the constitution.*"[1]

Ever since the words just quoted were written, they have swayed the deliberations of Constitution-making bodies as well as the action of the people of this country in shaping their fundamental laws. At the present time in a number of the American State Constitutions, including our own, the suggestion of Mr. Jefferson is embodied in a mandate that the legislature shall at stated intervals submit to the people the question of holding a convention for revising or remodeling their Constitution. It is further noteworthy that the interval referred to, as prescribed by the Constitution of Maryland, namely, twenty years, is coincident with the period which Mr. Jefferson advised.

Whether the illustrious Virginian, whose views were predicated upon the "social contract" theory of the origin of political society, was right or wrong[2] in holding that every constitution ought to be regarded as having expired at the end of nineteen or twenty years from its institution—thus reducing the natural life of governments, as has been said, to a period shorter than that of a horse—Mr. Madison in replying to him on this subject expressed the more conservative and probably sounder view that the continued validity of constitutions rests upon implied acquiescence and ratification as evidenced by the fact that they are not expressly repealed or changed.[3]

The people of Maryland, however, when they adopted the present Constitution in 1867, did not leave the continuation of the fundamental laws or the acquiescence of later generations in them to *implication,* but, on the contrary, they expressly and, as has appeared, literally followed the Jeffer-

[1]Jefferson's Works, Vol. 7, pages 14-16.

[2]See Sir Henry Maine's Ancient Law, Introduction, pages 55-57; Bonar, Philosophy and Political Economy, pages 189-196.

[3]See Willoughby's Nature of the State, pages 87-88.

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sonian injunction to "submit them to approbation or rejection at short intervals." Side by side, nevertheless, with this requirement, they provided in the Constitution a method of amending it, as occasion might arise, in accordance with the traditions of self-government. This method is set forth in article XIV, entitled "Amendments to the Constitution." It declares that the General Assembly may propose amendments to the Constitution; provided that each amendment shall be embraced in a separate bill, embodying the article or section as the same will stand when amended and passed by three-fifths of all the members elected to each of the two houses by yeas and nays to be entered on the journals with the proposed amendments. The section then provides for the due publication of the proposed amendment and its submission at the next ensuing general election in a form to be prescribed by the general assembly to the qualified electors of the State for adoption or rejection. The remaining provisions of the section refer to the duties of the Governor with respect to proclaiming the results of an election after the votes cast for or against a proposed amendment have been returned to him. This is an improvement over the methods of amendment prescribed by the previous Constitutions of Maryland.

Under the Constitution of 1776 the method of amending its provisions was by an act of assembly passed at one session and signed by the governor, the publication of that act before the next general election, but no vote upon it by the people, and its ratification by the succeeding general assembly.

By the Constitution of 1851, which was the second one adopted in Maryland, its provisions could only have been amended by a convention assembled for that purpose pursuant to article XI.

The Constitution of 1864, more analogous in this respect to the present Constitution, contained two modes by which amendments could be made, both of which were contained in article XI. By section 1 of that article, it was declared

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that the "General Assembly may propose any amendment which shall be agreed to by three-fifths of all the members elected to both houses." The section then required the proposed amendment to be published and subsequently to be voted on by the qualified electors at the next general election. By the second section, amendments were permitted to be made by a convention convened for that purpose, but before any amendment so proposed could become effective, it was necessary, under section 3, that it should be adopted by a vote of the people.[4]

The two distinct modes of amendment furnished by the present Constitution, namely by amendment proposed by the legislature and submitted to the people for approval or rejection and by revision of the Constitution in whole or in part by a convention called for the purpose, are embraced, with some variations in the checks or restrictions imposed, by the Constitutions of a great majority of the States.[5]

From these provisions it is evident that there was a firm intention on the part of those who framed and who adopted the existing Constitution to guard against *hasty action* upon the part of the people and their representatives in altering that instrument. They show a thorough appreciation of the caution held out by Chancellor Kent—in the veto message, written by him as a member of the Council of Revision of New York, upon a bill which omitted to submit to the people the question of holding a constitutional convention (although the Constitution of that State did not then require the submission of that question) while it proposed to submit to them an amended Constitution to be adopted or rejected as a whole,—that "time shall be given for mature deliberation upon questions arising upon the Constitution, which are always momentous in their nature and calculated to affect not the present generation alone, but their posterity."[6]

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[4]Warfield *vs.* Vandiver, 101 Md. 112.

[5]Hitchcock's American State Constitutions, 17.

[6]Hitchcock's American State Constitutions, pages 20-22. See also Bryce, "Studies in History and Jurisprudence," pages 180, 183.

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Mr. James Bryce in his "Studies in History and Jurisprudence" finds "real elements of stability" in written Constitutions growing out of the formal process for specific amendment generally required. This process, he declares, interposing various "delays and formalities before a change can be carried through" leads the people to "reconsider the issues involved and recede, if they think fit, from projects that may have at first attracted them." And, alluding to occurrences familiar to us, he adds:

"In the United States of America it has repeatedly happened that constitutional amendments prepared and approved by the legislature have been rejected by the people, not merely because the mass of the people are often more conservative than their representatives, or less amenable to the pressure of particular interests or sections of opinion, but because fuller discussion revealed objections whose weight had not been appreciated when the proposal first appeared. In these respects the rigid Constitution has real elements of stability."[7]

It is accordingly obvious that the method of submitting proposed changes in the basic law, first, to the deliberate test of the enlistment of three-fifths of the members of each branch of the legislature, and, thereafter, to the test of public advertisement and discussion and, finally, to that of submission to the arbitrament of the ballot is a conservative and salutary process which thoughtful and patriotic citizens may contemplate with much confidence. If changes comparatively few and in regard to specific features of the Constitution be deemed desirable, it is unquestionably preferable to obtain them by the method just referred to than to throw the whole Constitution into the hotchpot, as it were, of a constitutional convention. I agree, therefore, with the conclusion, so ably sustained by the distinguished Attorney-General of the State, and with the same view, as heretofore expressed by our honored citizen and eminent brother, Mr.

[7]Bryce, "Studies in History and Jurisprudence," 188.

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John P. Poe, that there is no present occasion for a convention to frame a new Constitution. Whatever changes in the existing instrument may be deemed expedient can be effectually accomplished by specific amendments proposed by the General Assembly and passed upon by the people.

I propose therefore to suggest some modifications to be wrought in the Constitution in the way just indicated. I have had no chance to confer with other members of the bar, as I should like to have done, in reference to the proposals I am about to make, and must, therefore, acknowledge myself solely responsible for them—except, of course, as to the amendment of the provision for engrossing bills, already recommended by the Committee of Judicial Administration and Legal Reform of this Association. Therefore, I do not know whether few or many will agree with me. Probably many will differ with me. In the discussion of legal and political themes, seriously concerning the interests of men, it is unavoidable that differences of opinion should exist. It was Hobbes who said that the axioms of geometry would be disputed if the interests of men were concerned with them.

But to proceed with the thesis of my paper.

I.

Buying and Selling of Votes.

The greatest and gravest evil with which the people of Maryland and probably of the whole country have to deal is the buying and selling of votes at elections and the consequent corruption of the electorate. The alarming increase of the venal vote accompanying the annual expenditure of large and constantly growing sums of money for the purposes of bribery at each recurring election in the State must impress every thoughtful citizen with a sense of the danger. The members of this association should take the lead in arresting an evil which is an attack upon free institutions,

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a violation of the written law, a stain upon the escutcheon of the State and an outrage upon public and common decency. The pollution of our elections ought to be stopped. The provisions of our election laws upon the subject are "more honored in the breach than in the observance." Only a few months ago a leading newspaper of the State referred to the traffic in votes as "a scandal and a disgrace almost universally admitted" and as "a terrible and fatal contagion" which "has already spread and is spreading until no part of the State is entirely exempt from its malignant poison." This unspeakable evil—the nature and effects of which are too well understood to require discussion—should be condemned and throttled by the *paramount law of the State.* The existing section of the Constitution, prescribing disfranchisement and ineligibility for any office, as a penalty for bribery at elections, has, so far as its practical effect is concerned, proved an entirely perfunctory provision. Of course, it is true, that, if the people at large are so debased as to find nothing to alarm or shock them in the existence of wide-spread and notorious bribery at elections, Constitutions and ordinary statutes must be unavailing. But such, certainly, is *not* the condition of the public mind and morals in this State. There undoubtedly exists deep-seated and general abhorrence and indignation among our thoughtful and honest citizens, who are in a vast majority, at the prevalence of this evil practice and there also exists among such citizens an intelligent sentiment that, as a public peril of the first magnitude, it should be promptly and utterly stamped out. This sentiment should find expression in a trumpet-tongued denunciation of bribery at elections as a crime against the majesty of the people, a *crimen laesae majestatis,* in the Constitution itself.

"All popular representation," says Dr. Lieber in his Political Ethics, "rests essentially upon election; everything, therefore, which in any way interferes with election, either by demoralization of the voters or disturbance or falsifying the election, by whatever means this may be, is a *grave*

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offence against public liberty; but in a representative Republic in which the whole government rests on representation and supreme power is in the people, we cannot but consider every such offence as *a crime against the majesty of the people, a crimen laesae majestatis.* As it is treason in monarchies to falsify acts of the Prince or control his actions by combination around him, as it has been punished as treason strongly to influence the Prince to the detriment of the people's liberty, so we cannot otherwise but acknowledge that, in principle, every forcible or malicious influence upon elections or their unlawful interruption or falsification—by false votes or false returns—is *treason against the people in an elective and representative republic.* . . . As to bribes, they are prostitution in the bribed, simony in the briber—a simony of the worse kind—and *treason in both.* . . . The worst form of election offences is bribery. . . . We have called all acts of election falsification treason against liberty; *bribery is the worse form of these treasons.* It would amount to treason of the highest kind in a monarchy to substitute a changeling for the legitimate infant who is heir to the crown. Is it less criminal to substitute a counterfeit for a genuine public opinion—for what the *true* election returns ought to be—the foundations on which the fabric of civil liberty greatly rests?"[8]

As the first step in expressing and intensifying the opinion of the people against the corruption of their elections, the sentiment of the passage just quoted should, I suggest, be briefly inserted in the Declaration of Rights, as a distinct article, in substantially the following form:

The buying and selling of votes at elections is destructive of the essence of civil liberty, an assault upon the honor and safety of the State, and a high crime against the People. No citizen, therefore, ought to offer or receive, in any way or on any account, a direct or indirect bribe in connection with the elective franchise; so that all elections may be pure.

[8]Lieber's Political Ethics, Vol. 2, pages 391-398.

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In support of such an announcement in the Declaration of Rights a number of strong provisions bearing on this subject ought, it is submitted, to be inserted in the body of the Constitution.

One of these should be an imperative mandate requiring the general assembly to pass a thorough and stringent Corrupt Practices Act, applicable to both primary and general elections throughout the State. The essential features of such a law, rendering its evasion if not wholly impossible, certainly highly dangerous, are now so well settled by legislation elsewhere, and particularly in England, and have so far passed the stage of experiment, that they could be briefly indicated in the Constitution itself as the main lines to be followed by the legislature. Such provisions would prescribe the publication by candidates and campaign committees of the amount of their expenditures; strict limitations upon the amounts to be expended in connection with elections; the publication of all receipts of money and the sources of the same for campaign purposes; the vitiation of title to office upon proof of corruption, whether the same is sufficient to change the result of the election or not; the trial of all election contests in the courts and not in the legislative assemblies; and the prohibition of contributions for political purposes on the part of corporations. Such remedies have proved highly effective in the English Corrupt Practices Act, concerning which a recent writer in the *North American Review* states "the Corrupt Practices Act and the other influences at work since 1883 have certainly almost put an end to squalid bribery."[9]

Such a provision could be appropriately added to section 42 of article 3 of the Constitution, which states that the General Assembly shall pass laws necessary for the preservation of the purity of elections.

Together with the foregoing provision there should be an express and mandatory requisition upon the legislature to

[9]See *North American Review,* November 16, 1906, p. 1004.

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supply in such a law for the suppression of corrupt practices all proper and necessary legislation to make it thoroughly effective.

In addition to this, the Constitution should require the State's attorney of each county and of Baltimore City to take such steps as may be proper or necessary to obtain all possible information concerning any act of bribery or other corrupt practice in connection with any election, and to lay the same before the several grand juries of the respective counties and of Baltimore City, and to vigorously prosecute every such violation of the law; and, further, that for any wilful omission to perform or violation of his duties in respect to the detection and prosecution of bribery at elections, the State's attorney of every county and of Baltimore City shall, upon conviction thereof in a court of law, be removed from his office and be ineligible for any other office or public trust.

It should also be made the constitutional duty of the judges of every county circuit and of the criminal courts of Baltimore City to give special instructions to the grand juries, both before and after each election, with a view to the suppression of this crime.

I would also suggest a provision to this effect:

No person elected or returned as elected to any office in this State by bribery or the corrupt use or expenditure of money in connection with the election at which he claims to have been chosen for such office, shall enter upon or occupy such office; and any citizen may by a mandamus proceeding challenge and test the right of any person to occupy any elective office under this provision.

Besides this provision, the Constitution should prescribe an oath to be taken by every person returned elected to any elective office, before entering the same, to the effect that he has not promised or given any money, thing or other inducement to any person whatsoever for the purpose of obtaining or influencing the vote of such person or of any other person

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in his, the affiant's, favor in the election by virtue of which the office in question is claimed, and that he, the affiant, does not know and has no reason to believe that any person acting for him or in his behalf in said election has promised or given any money, thing or other inducement to any person whatever for the purpose of influencing the vote of such person or of any other person in his, the affiant's, favor in the said election.

There is still another weapon to be added to the arsenal of the Constitution for the protection of the people against this supreme crime and peril. I refer to a provision, found in slightly varying forms in the Constitutions of several of the States, whereby any person, having knowledge on the subject, may be compelled to testify in any lawful proceeding against any person who may be charged with the offence of bribery. As the result of an examination of the State constitutions containing such a provision, the following is suggested as a proper amendment to be added as a new section to our Constitution:

In the trial of contested elections and in all proceedings for the investigation of elections and in all criminal trials for bribery or other offence under the election laws, any person may be compelled to testify against any person who may be charged with having committed any of the said offences or against any person who may be interested in the election under investigation; and no person shall be permitted to withhold his testimony on the ground that it may incriminate him or subject him to public infamy; but such testimony shall not be afterwards used against him in any judicial proceeding except for perjury in giving such testimony.

Such a provision would avoid the chief technical obstacle now in the way of convictions under the law.

In carrying out one of the above suggestions, it would be necessary to amend section 19 of article 3 of the Constitution which provides that each house of the General Assembly shall be the judge of the qualifications and elections of its

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members. For this section there should, it is submitted, be substituted a provision that all election contests and investigations should be tried in the courts. The English Corrupt Practices Acts provide for the trial of election contests for seats in the House of Commons in the courts, and this provision has contributed effectively to put an end to bribery at elections in that country.[10]

Gentlemen, I have now submitted the main suggestions which have occurred to me as calculated to arrest and extinguish the prime political evil which threatens our people. And I trust I may be pardoned for expressing the hope that these suggestions may tend to convince even the least optimistic that an earnest determination upon the part of the people, and upon the part of those whose responsibility it is to advise and guide them in their public concerns, to put a final and utter end by constitutional and legal means to this evil, must result in its eradication. It would not require a very long time for this assemblage of influential lawyers, representing every section of the State, to develop an irresistible popular demand for the protection and purity of the ballot, and it would be an unpardonable sacrifice of a precious opportunity to strike a powerful blow at the spectre of corruption which is now stalking over the State—a blow to preserve the pure principles of self-government and the foundations of all security for liberty, and to perpetuate for our institutions the virtues and principles of the patriots who founded them,—if a speaker upon *such a theme* failed to avail himself of such a presence as this, and of such an *occasion* as this, when our hearts are overflowing with patriotism and we are bending in veneration before the glorious event and the thrice glorious doctrines commemorated by the anniversary of the day of our Nation's nativity.

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[10]*North American Review,* November 16, 1906, pages 995-1004.

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II.

The Suffrage.

The next amendment which I think it would be desirable to make to the Constitution relates to the qualifications of electors. Section one of article 1 should, in my judgment, be so amended as to attach a simple and certain educational qualification to the exercise of the elective franchise. The test which I would suggest is the easy and definite one of ability to read a section of the State Constitution. This qualification should apply equally and uniformly to all citizens as a condition precedent to the right to vote; except, however, in the case of those citizens who pay taxes and, possibly, those also, who pay rent for the use or occupation of real or leasehold property. All citizens paying such taxes or rent and qualified by age and residence, as prescribed by section 1 of article 1 and not disqualified by sections 2 and 3, should have an unconditional right to vote. All other persons applying to be registered should be required to be able to read a section of the Constitution as a *sine qua non.* Such a constitutional amendment should also carefully and amply provide for an appeal to the courts of law from the action of any board of registry refusing registration to anyone applying therefor.

An amendment of this sort, it will be noted, secures to taxation its correlative right of representation, whilst payment of rent may be taken as giving an analogous right and also as evincing an interest in the economical administration of public affairs—and it establishes at the same time a certain, simple and safe qualification for the elective franchise. Such an amendment could be prescribed by the State with absolute justice, and would apply in a fair and unburdensome way the salutary principle that political rights should be correlated to political duties. It would vastly tend to lessen the evil of an unthinking suffrage wielded by a large body of illiterate and irresponsible voters in this State, who became

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voters as a consequence of the war between the Northern and Southern States and not only not through any act of the people of Maryland, but in the teeth of their solemn rejection of the amendment to the Federal Constitution under which the persons in question vote.

Such a slight educational barrier as mere ability to read a paragraph in print, with the present abundant public provision for elementary and advanced education in this State, cannot long bar anyone from the electorate who is at all worthy of it or, indeed, whose admission to it would not do the State positive harm. John Stuart Mill, many years ago, silenced objection to a simple educational qualification upon the suffrage of this sort. In his Representative Government he says:

"I regard it as wholly inadmissible that any person should participate in the suffrage without being able to read, write and, I will add, perform the common operations of arithmetic. Justice demands, even when the suffrage does not depend upon it, that the means of attaining these elementary acquirements should be within the reach of every person, either gratuitously, or at an expense not exceeding what the poorest, who earn their own living, can afford. If this were really the case, people would no more think of giving the suffrage to a man who could not read, than of giving it to a child who could not speak; and it would *not be society that would exclude him, but his own laziness.* When society has not performed its duty, by rendering this amount of instruction accessible to all there is some hardship in the case, but it is a hardship that ought to be borne. If society has neglected to discharge two solemn obligations, the more important and more fundamental of the two must be fulfilled first: universal teaching must precede universal enfranchisement. No one but those in whom an *a priori* theory has silenced common sense will maintain, that power over others, over the whole community, should be imparted to people who have not acquired the commonest and most essential requisites for taking care of themselves; for pursuing intelligently their own interests and those of the persons most nearly allied with them. . . . It is better that the suffrage should be conferred indiscriminately or

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even withheld indiscriminately, than that it should be given to one and withheld from another *at the discretion of a public officer.* In regard, however, to reading, writing and calculating, there need be no difficulty. It would be easy to require from every one who presented himself for registry, that he should, in the presence of the registrar copy a sentence from an English book and perform a sum in the rule of three; and to secure, by fixed rules and complete publicity, the honest application of *so very simple a test.* This condition, therefore, should in all cases accompany universal suffrage; *and it would, after a few years, exclude none but those who cared so little for the privilege that their vote, if given, would not in general be an indication of any real political opinion."*

In addition to its simplicity and the fact that it raises but a slight barrier to the suffrage, such an amendment would have the advantage of that definite certainty which Lord Bacon so earnestly declared to be an inseparable essential of a good law.[11] It leaves nothing to discretion. It commits nothing to personal judgment and authority. It closes the door against arbitrary decision as well as against the partisanship or caprice or fraud of election officials. It shields the elective franchise with the certain limitations of a plain and definite statute. And finally, it holds every election official to a rigid accountability and gives security to the citizen by an appeal to the courts themselves.

The public and constitutional law of England as well as of this country has at all times recognized the legitimacy of qualifications upon the exercise of the suffrage. An educational qualification has existed for many years in the New England States, as well as in other States of the Union,

[11]"Certainty is so essential to a law, that a law without it cannot be just; for if the trumpet gives an uncertain sound, who shall prepare himself to the battle? So, if the law has an uncertain sense, who shall obey it? A law, therefore, ought to give warning before it strikes; and it is a true maxim that the best law leaves least to the breast of the judge; which is effected by certainty." —Advancement of Learning, Bk. VIII, Ch. 3, Aphorism 8.

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and such tests, of a far more stringent character than the one above suggested, together with other qualifications, are now prescribed by the Constitutions of most of the Southern States.

It is unnecessary for me to remind such an audience as this that the privilege of voting is neither a natural nor an absolute personal right. It is a conventional right derived from affirmative law—from Constitutions and statutes.

Government, Mr. Burke declares, is a practical thing made for the welfare of man and not to furnish a spectacle to gratify the claims of visionary politicians. And so Milton and Bacon and Sidney and Locke as well as all of the more technical writers on Natural and Public Law assert the absolute right of every political community to organize its government as it shall deem best for the general interest.

Jefferson, Hamilton, Madison, Story, Webster, Calhoun and all the leading publicists of this country have repeatedly stated it to be a fundamental article of free government that the right of suffrage should be carefully limited and defined.

Our own Court of Appeals in the great case of Anderson *vs.* Baker, 23 Md. 551, declared through Chief Justice Bowie that—

"Citizenship and suffrage are by no means inseparable; the latter is not one of the universal inalienable rights with which men are endowed by their Creator, but is altogether conventional. . . . None of the elementary writers include the right of suffrage among the rights of property or person. It is not an absolute, unqualified, personal right."

And in the same case, Mr. Justice Weisel said:

"The right of suffrage is not an original indefeasible right, even in the most free of republican governments; but every civilized society has uniformly fixed, modified and regulated it for itself, according to its own free will and pleasure, and in the United States every Constitution of government has assumed, as a fundamental principle, the right of the people

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of a State to alter, abolish and modify the form of its own government, according to the sovereign pleasure of the people. The right to vote, like the right to hold office, being thus conferred upon the voter by the sovereign will of the people in their organic law or constitution of government, the question, upon whom it ought to be conferred, and what should constitute its boundaries and limits, in other words, what should qualify and what should disqualify is one which the people themselves are to settle. So various are the circumstances, habits, wants, character, conditions, pursuits, dangers and difficulties of different people, that no fixed or certain rule can be laid down by which the right of suffrage can be imparted. No one has ever yet pretended that the right should be universal, in the most enlarged or extended sense of that term, so as to embrace every age, sex, character and condition."

On June 12, 1776—only 22 days before the Declaration of Independence was issued—these principles on the subject of suffrage were formulated in the sixth section of the Virginia Declaration of Rights as follows:

"That all citizens ought to be free; and that all men *having sufficient evidence of permanent, common interest with and attachment to the community* have the right of suffrage."

In Maryland, from 1776 until 1809, there was a property qualification for the suffrage of "a freehold of 50 acres of land in the county" in which the "freeman" offered to vote and "property in the State above the value of 30£ current money." Similar qualifications as to property or taxes existed in Massachusetts until 1821; in New Hampshire until 1792; in Connecticut until 1845; in New York until 1826; in New Jersey until 1844; in Delaware until 1831; in Virginia until 1857; in South Carolina until 1855; in North Carolina until 1854 and 1868; and such qualifications have also existed in Pennsylvania, Rhode Island and other States of the Union.

"Let the suffrage, then," I am quoting from the recent work of the late John Randolph Tucker on the Constitution

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of the United States, Vol. 1, section 63, "be conferred upon all those, whose *intelligence and community of interest* in the affairs of the State are sufficient to insure that they will *wisely and honestly* perform this important function and make them a *true* representative of the real body politic in the election of the law-making department. The more liberal the rule of suffrage, *covering the essentials of reason and honesty,* the better."

III.

The "Special Charter" Evil.

There should be earnestly urged upon the people of the State an amendment of the Constitution whereby the granting of special charters of incorporation, except for municipal purposes, shall be effectually prevented. Section 48 of article 3 should be displaced by a substitute whose terms should be so expressed and mandatory that there could be no escape from them. I believe that such a constitutional provision, capable of strict enforcement, can be prepared and it ought, in my judgment, to be adopted.

The quest for special charters with which every session of the General Assembly is beset is a serious public nuisance, which should be abated. This crying evil was brought to the attention of this association at its annual meeting in 1901, in an able address by its distinguished President, Mr. Stevenson A. Williams, in which modifications of the general incorporation statutes were suggested as the remedy.

At its session in 1900, the General Assembly, Mr. Williams stated, granted 144 charters. How many more were introduced, went through readings and other routine occupying the time and attention of that legislature and its officers, is beyond conjecture. In the proceedings of the legislature of 1902—*quorum pars fui*—we were again inundated with a mighty rush and deluge of bills of this character. All

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through the session, the desks of the Speaker of the House and the President of the Senate and of the clerks of both branches and of the committees on corporations, and of all the engrossing clerks, were covered with monumental stacks of these bulky measures until they literally groaned beneath their weight. It is no exaggeration to say that almost one-half of the whole period of the legislative session was occupied and for the most part wasted with these bills. In addition to the expenditure of the time and money of the State by reason of such conditions, deserving interests and business of the public necessarily suffered thereby. Similar conditions obtained in the ensuing sessions of 1904 and 1906.

Serious as all this is, it is only a fraction of the wrong wrought by the power of the legislature to grant special charters to particular individuals and the consequent importunities of the latter for such grants. Such a practice covers a system of favoritism and special privileges in conflict with the underlying maxim of our polity—*equal rights for all and special privileges for none.*

Some slight illustration of the evil, in this respect, is furnished by a note on page 36 of Mr. France's Work on the Law of Corporations in reference to the case of three charters granted at the session of 1902. By chapter 252 of the acts of that session The Investment Company of Maryland was incorporated with powers not obtainable under the law; by chapter 359 similar powers were granted to The Maryland Securities Company; by chapter 601, a charter which, excepting the names, was an exact copy of that granted to The Investment Company incorporated under chapter 252 above mentioned was granted to still another set of individuals who seemed to be so impressed with the title of The Maryland Securities Company incorporated under chapter 359 that they called themselves The Securities Company of Maryland. "Under a proper law," Mr. France remarks, "the powers conferred upon these three corporations would be thrown open to all or permitted to none."

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A third objection to the granting of special acts of incorporation in the existing manner is that it prevents uniformity in the privileges of corporations of a kindred nature and in the rules of law which ought to be applicable to them all. The laws of a State upon a given subject should not be allowed to become divergent and varying, but should be controlled by some general or ruling principle uniformly bearing upon that subject.

In this State as well as in all the States of the Union the sentiment sprang up long ago that corporations, except for governmental or municipal purposes, should be formed under general laws and not created by special act. Provisions practically to this effect are found in almost all of the State Constitutions—but many of them, including that in our own Constitution, are coupled with qualifications which render them almost nugatory.

In McKim *vs.* Odom,[12] Chancellor Bland states that there were no private corporations chartered by the colony of Maryland. And prior to 1800 the State granted but eleven charters in all.[13] In 1838 a general act, chapter 264, permitting incorporations for manufacturing purposes was passed, and this was supplemented by the acts of 1846, chapter 323, and of 1847, chapter 26. The Constitution of 1851 provided that "corporations may be formed under general laws but shall not be created by special acts except for municipal purposes, and in cases where, in the judgment of the General Assembly, the object of the corporation cannot be obtained under the general law." The language of this provision, retained in the Constitution of 1864, was changed in article 3, section 48, of the Constitution of 1867, where it remains as follows:

"Corporations may be formed under general laws but shall not be created by special acts except for municipal purposes

[12] 3 Bland 407.

[13] Two Centuries' Growth of American Law, Chap. 10, 270; France on Corporations, page 9, note 8.

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and except in cases where no general laws exist providing for the creation of corporations of the same general character as the corporation proposed to be created; and any act of incorporation passed in violation of this section shall be void. And as soon as practicable after the adoption of this constitution, it shall be the duty of the governor to appoint three persons learned in the law, whose duty it shall be to prepare drafts of general laws, providing for the creation of corporations in such cases as may be proper and for all other cases where a general law can be made."

It would seem that this provision should have overcome the evil against which it was directed. But it did not. The Court of Appeals decided in Reed *vs.* Baltimore Trust and Guarantee Company, 72 Md. 531, that even where the general law provides for corporations "of the same general character as the corporation proposed to be created," yet, if by a special act some power in addition to that conferred by the general law is given, the special charter is valid. "The result of the constitutional limitation, legislation and judicial decision is this: If the proposed corporation does not belong to one of the classes included in the general law; or if the desired powers are in excess of those conferred by that law, it may and must be created by special act."[14]

My proposition is that the State Constitution can and ought to put an end to the public nuisance, the system of favoritism and the lack of uniformity in the privileges of and the laws applicable to corporations of the same character —the chief, but indeed not the only evils of granting special charters for private objects. To accomplish this, I suggest the following to take the place of section 48 of article 3:

All corporations except those for municipal purposes shall be formed under general laws and they may be formed under general laws for any object, project or pursuit or to carry on any business or enterprise which it would be lawful for an individual to pursue or carry on. The amendment of charters (whether heretofore or hereafter granted) shall

[14]France, Corporations, page 36.

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be provided for by general laws and such amendments may be for any object, project or pursuit or to carry on any business or enterprise which it would be lawful for an individual to pursue or carry on; and no charter shall be granted, amended or extended by special act—nor shall authority in such matters be conferred upon any tribunal or officer, except to ascertain whether the applicants have, by complying with the requirements of the law, entitled themselves to the charter, amendment or extension applied for and to issue or refuse the same accordingly. It shall be the duty of the General Assembly to enact such general laws and the same may be amended or repealed by the General Assembly, and all charters or amendments of charters, now existing and revocable, or hereafter granted or extended, may be repealed at any time by special act of the legislature. The General Assembly shall not by special act regulate the affairs of any corporation, nor by such act give it any rights, powers or privileges.

Any charter granted in violation of this section shall be absolutely void and it shall be the duty of the attorney-general on behalf of the State to cause by apt proceedings the same to be declared void and vacated.

For the first and last paragraphs of the amendment just proposed I must own myself responsible. The intermediate parts (with some modifications) are taken from the Constitution of Virginia adopted in 1902.

Under the first paragraph referred to, there is no room for the *ratio decidendi* of Reed *vs.* Baltimore Trust and Guarantee Company.

There is no reason, it is submitted, why a number of persons, lawfully incorporated, should not be authorized to engage in whatever pursuit or enterprise the law permits individuals to engage in. Thus the whole field of business and industry would be opened equally and without discrimination to all citizens, who desired to enter, under the general incorporation laws.

And the general laws should prescribe uniform rights, restrictions and limitations applicable to all alike.

Some may ask—why not deal with the subject in the ordinary statutes, that is, by amending the general incor-

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poration law, and not in the Constitution? To this I answer:

1. A constitutional provision would exert a stronger influence and morale on the subject than an ordinary legislative enactment.

2. It would seem to be always possible to improvise some grant of special privilege or power, no matter how slight, for which the most carefully constructed general law might contain no provision, and the rule in Reed *vs.* Baltimore Trust and Guarantee Company could be invoked to warrant a special charter.

3. The undoubted purpose of the present constitutional provision on the subject was to prevent special charters, and if the matter is dealt with by the Constitution at all with that end in view, it ought to be dealt with right.

In conclusion upon this subject, it would appear to be probable that the adoption of such a constitutional provision would compel the prompt enactment of an enlightened and modern corporation code for Maryland in lieu of the crazy-quilt conglomeration which now passes for a *system* of law upon the subject.

IV.

Representation and Apportionment.

Permit me in the next place to call attention to a grave defect and injustice in the present Constitution. I refer to the appointment of representatives of the people of the State in the General Assembly as provided in sections 2, 3 and 4 of article 3, relating to the legislative department. Under these sections the arrangement of representatives in the House of Delegates is provided for as follows:

Every county having a population of 18,000 or less shall be entitled to two delegates; every county having over 18,000 and less than 28,000 to three delegates; counties having 28,000 and less than 40,000 to four delegates; those having 40,000 and less than 55,000 to five delegates; those

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having 55,000 and upwards to six delegates. Each of the four legislative districts of Baltimore City, it is provided, shall have one senator and as many delegates as the largest county.

According to the theory of representative government and to every principle of equity this plan of apportionment and representation is utterly indefensible. It is a grotesque and arbitrary anomaly without any parallel in any of the Constitutions of the American States. Contemplating these sections of our Constitution, one is tempted to invoke Bishop Burnet's inelegant but historic characterization of the old inequalities and abuses in the representation in Parliament as "the rotten part of the constitution." It tends to recall the particular instance alluded to by Locke "that the *bare name* of a town, of which there remain not so much as the ruins, where scarce so much housing as a sheepcote or more inhabitants than a shepherd are to be found, should send as many representatives to the grand assembly of law makers. as a whole county numerous in people and powerful in riches";[15] and also at a later period, Leeds, Birmingham and Manchester without representation, whilst the seats of the House of Commons swarmed with members for *Old Sarum,* where—according to Burke—"one could only trace the streets by the color of the corn, and its sole manufacture being members of Parliament."

It would be a work of supererogation to argue before an auditory of intelligent Americans, much less one composed of gentlemen learned in the law, that in view of the fact that the population of Baltimore City is essentially one-half of the population of the whole State and of the further fact that the city pays ten-seventeenths, that is to say considerably more than one-half of the whole amount of taxes which flow into the Treasury of the State, the allotment of but twenty-four representatives to Baltimore City out of the total of one hundred and one members in the popular branch

[15]See Wynne's Eunomus, pages 206-7.

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of the State legislature, and of four senators out of twenty-seven in the senate, is a violation of the principle and object of the representative system in a democracy.

But in dealing with a fundamental matter of this sort a recurrence to original principles as announced by venerable and undoubted authority cannot be superfluous.

Mr. Jefferson from the beginning to the end of his public life let no opportunity pass to insist upon the principle of equality as essential in our representative republics. In the very letter referred to at the beginning of this paper he wrote:

"At the birth of our republic, I committed that opinion to the world in a draft of the Constitution annexed to the 'Notes on Virginia' in which a provision was inserted for a representation *permanently equal*. . . . Experience and reflection have more and more confirmed me in the particular importance of the *equal representation* then proposed. . . . Let it be agreed that a government is republican in proportion as every member composing it has *equal voice* in the direction of its concerns by representatives chosen by himself and responsible to him at short periods, and let us bring to the test of this canon every branch of our Constitution. . . . The true foundation of republican government is the equal right of every citizen in his person and property and in their management. Try by this, as a tally, every provision of our Constitution, and see if it hangs directly on the will of the people. Reduce your legislature to a convenient number for full but orderly discussion. Let *every man* who fights or pays exercise his *just and equal right in their election.*"[16]

Mr. Webster is equally express to the purpose. On the 4th of July, 1851, only a few months before his death, in his "Address at Laying the Corner-Stone of the Addition to the Capitol," he said:

"I will venture to state in a few words what I take these American political principles in substance to be. They con-

[16]Jefferson's Works, Vol. 7, pages 9-11.

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sist, I think, in the first place in the establishment of popular government on the basis of representation. . . . *This representation is to be made as equal as circumstances will allow.*"

And Dr. Lieber, to the same effect, asserts:

"By the representative system, that is by a representation gathered from the whole society upon uniform and extensive principles *proportionably* applied to that society, we alone are able to gather public opinion."[17]

It is unnecessary and, within the limits of this paper, impossible to multiply citations. The principle is too well settled and universally known to require exposition. When it is applied, however, for the purpose of testing the sort of representation which the Constitution of Maryland gives to the whole people of the State at large we cannot but put to ourselves the inquiry concerning our General Assembly which Sir James Mackintosh put to the people of Great Britain concerning the unreformed House of Commons—"Who can, without indignation, hear the House of Commons of England called a popular representative body?"[18]

There is no other State in the Union, whose Constitution contains anything like such an extreme departure from the just rule of representation in an elective government as that above referred to in the Constitution of Maryland. In other States of the Union, in many of which there are large and populous cities, their respective Constitutions provide for an approximation to the principle that representation in their legislatures shall be equal and uniform and based upon population. This is true, for example, of the Constitution adopted only a few years ago by the State of New York, with its thickly inhabited cities, and of the Constitutions of Illinois, Ohio, Missouri, California and Michigan, contain-

[17]Political Ethics, Vol. 2, page 511.

[18]Defense of the French Revolution, page 154.

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ing the large cities of Chicago, Cincinnati, St. Louis, San Francisco and Detroit.[19]

Thus, in the New York Constitution, the senate is made to consist of 50 members, and the assembly of 150 members. The State is divided into 50 senate districts. An enumeration of the inhabitants of the State was required to be taken in 1905 and such an enumeration is to be taken every tenth year thereafter—"so that each senate district contains as nearly as may be an equal number of inhabitants." The ratio of apportioning senators shall always be obtained by dividing the number of inhabitants, excluding aliens, by fifty. The only limitation upon this uniform and equal popular representation of the people in the State senate of New York is a provision that no county shall have more than one-third of all the senators, and no two counties or the territory thereof as now organized, which are adjoining counties, or which are separated only by public waters, shall have more than one-half of all the senators. Representation in the lower or more numerous branch of the New York legislature is secured upon the basis of population and upon a ratio applying equally and uniformly throughout the State.

The Constitution of the State of Massachusetts, embracing the city of Boston, also provides a fair and equal representation in the legislature for the whole people without discrimination against any.

In the South, Virginia does not discriminate against Richmond; nor does Georgia against Atlanta; nor South Carolina against Charleston; nor Tennessee against Mem-

[19]See, Constitutions of New York, Art. III, Secs. 3, 4, 5; Illinois, Art. III, Secs. 6, 7, 8; Ohio, Art. XI, Secs. 1-11; Missouri, Art. IV, Secs. 2-11, and Art. IX, Sec. 23, the latter section, following several sections that refer to the extension of the limits of the City of St. Louis, expressly provides as follows: "The City, as enlarged, shall be entitled to the same representation in the General Assembly, * * * as if it were a county as in this Constitution defined"; California, Art. IV, Sec. 6; Michigan, Art. IV, Secs. 2, 3, 4.

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phis; nor Kentucky against Louisville; and in the State Constitution of Louisiana adopted as recently as 1898 by the people of that State, the principle of equality and uniform representation, founded upon population, is strictly preserved and applied throughout the State, including the city of New Orleans.[20]

From such a just, equal and democratic plan, how widely divergent is the plan of apportionment and representation prescribed by our Constitution. In the light of the plain statistics of Maryland and Baltimore City in reference to population and taxes, sections 2, 3 and 4 of article 3 of our Constitution appear to be a deliberate travesty not only upon the true principles of our government but upon common sense.

According to the State's census of 1901, the population of Baltimore City was 517,035; the population of all the counties of the State was 664,656. The total population of the entire State was 1,181,691.

Let us take 18,000 (the minimum number of population prescribed by the Maryland Constitution) as a representative figure and assume that at the present time the population of Baltimore has increased from 517,035, in 1901, to 600,000 persons; and that each county has increased its population from 1901 to the present time correspondingly. Let us also adopt the manifestly fair and just principle of allowing an additional representative for every fraction exceeding one-half the representative number. Then, by dividing the population of Baltimore City and of the several counties by the representative number of 18,000, maintaining at the same time the minimum allowance of two representatives to each county having 18,000 population or less, we find that upon such a plan of apportionment Anne Arundel, Calvert, Caroline, Cecil, Charles, Dorchester, Garrett, Harford,

[20]See, Constitutions of Louisiana, Secs. 18 and 19; Tennessee, Art. II, Secs. 4, 5 and 6; Kentucky, Sec. 33; Virginia, Sec. 43, and Act of General Assembly approved April 2, 1902; South Carolina, Art. III, Secs. 3-6; Georgia, Art. III, Sec. 3.

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Howard, Kent, Queen Anne, Somerset, St. Mary's, Talbot, Wicomico and Worcester would each be entitled to two representatives in the House of Delegates. Allegany, Carroll, Frederick, Montgomery, Prince George's and Washington would each be entitled to three representatives in the House of Delegates. Baltimore County would be entitled to five delegates. Baltimore City would be entitled to thirty-three delegates. The total number of delegates in the House would be eighty-eight.

Take another plan of distribution, more arbitrary than the scheme just referred to, but far more just than the arrangement which now obtains. The maximum number of six delegates for a county or a legislative district is allotted by the present constitution to a population of 55,000 souls. The population of Baltimore City according to the census of 1901 was in round numbers 517,000. The population of Baltimore County, the only county exceeding fifty-five thousand and entitled to six delegates, was in round numbers 88,000 at that time. If Baltimore County, with a population of 88,000 is entitled to six delegates, Baltimore City with a population of 517,000 is fairly entitled to six times as many delegates. Accordingly, Baltimore City upon such an eminently just basis should be divided into six legislative districts with six representatives from each district in the House of Delegates, or thirty-six members in all. And upon the same basis of calculation Baltimore City would be entitled to six senators in the State Senate, or one for each district with a population equal to that of Baltimore County.

The county of Maryland which has the largest population less than 18,000, and therefore, the most numerously populated county which is entitled to two delegates under the present arrangement, is Kent, with 17,788, according to the census of 1901. If that figure be taken as the basis of representation for two delegates, that is to say, if 17,788 persons are entitled to two delegates, Baltimore City with a population of 517,035 would be entitled to fifty-eight delegates.

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Will some one explain, upon what principle of justice, or ethics or law or politics or philosophy or literature or religion or medicine or physics or anatomy or æsthetics or art, a man in Kent County is entitled to twenty-nine times the representation that a man in Baltimore City is entitled to? Calvert County has 9,963 inhabitants, according to the census of 1901, entitled to two delegates. If that number of persons be entitled to two delegates, the population of Baltimore upon the same ratio would be entitled to one hundred delegates. They are, no doubt, most excellent people in Calvert County, but will somebody make it clear why the men and women of Calvert County are to be considered in the Constitution of the State as fifty times better than the men and women of Baltimore City?

In the further consideration of this subject, it must be remembered that Baltimore City pays into the State Treasury five times the taxes that Baltimore County, the leading county in wealth and population, pays. The assessment for State taxes in Baltimore City for 1907 amounted to $408,907,664; for Baltimore County, $87,670,777. Baltimore City paid for 1906, $1,000,933.01; Baltimore County paid $206,026.33.

Compared with Calvert County the figures are still more striking. The assessments for State taxes in that county were, for 1907, $2,329,117, on which were paid in taxes $5,473.42. Thus, while Calvert County was paying less than $5,500, Baltimore City was contributing over $1,000,000 into the State Treasury in 1906—about two hundred times as much, although Baltimore's representatives in the General Assembly are but twelve times as many as the representatives of Calvert County in that body, and this with a population in the city fifty times as great as that of the fine old county referred to.

If we are to have anything like a fair and sensible system of representation for the whole people of this State, article 3 of the Constitution must be so amended as to afford and not to deny such a system. The amendment which I would

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recommend is one which shall establish *an equal and uniform representation in both branches of the General Assembly, based upon the population of the State as a whole, subject to the limitation that Baltimore City be not allowed to have more than one-half of the whole representation of the State in the House, or more then, say, two-fifths of the whole number of senators.* This is simple justice—less than which the people ought not to take. There will be a new Federal census in 1910 and the next General Assembly of Maryland could promulgate a proposed amendment to section 3 of the Constitution, embodying such a plan of representation, in time for its adoption by the people and the immediate apportionment thereafter of representatives upon the basis of the new census.

Some despair of so much being accomplished at once. Their view is that the people of the counties will not accord to the people of Baltimore City full and equal representation with themselves. I do not share that pessimism. I think it is a great injustice to the people of the counties. I know, to the contrary, that the people of the counties are fully imbued with a high sense of fairness both in their private and public relations, and that they are ardently attached to every principle upon which free constitutions and their just administration must necessarily rest. They cannot fail to appreciate that the inequality of the existing plan of representation in the State legislature is at variance with the essential theories of constitutional and representative government. And I have no doubt that when the justice of the matter is properly presented to them, they will eliminate from their organic law a discordant and undemocratic feature which is at war with the true principles of freedom and self-rule, and do all in their power to strengthen the roots of popular government, which, no man will deny, they hold it their highest duty to preserve and perpetuate.

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V.

Legislators not to Vote on Measures they are Interested in.

Taking leave of the important subject which we have just been considering, I beg to suggest one or two other amendments to article 3 of the Constitution, appertaining to the legislature.

Those who have had occasion to observe at close range the proceedings of the General Assembly, and particularly those of us who have served in that body, will recall that it happens, not infrequently, that some of its members vote upon measures in which they themselves are interested.

This evil is one which is expressly dealt with by a number of the State Constitutions. The practice should be terminated by a constitutional provision in this State.

The duty of a representative of the people is wholly public and his service in that capacity should be absolutely unselfish and disinterested. There should be no personal end or private motive in any of his public acts. To appropriate his official authority to his individual gain is not only a perversion of that authority, but is derogatory to his own honor, limits his public usefulness and bodes no good to the State. More than that, it is a positive harm to the State. It is a species of corruption, which, like political corruption of every sort, if unarrested, must eat into the vitals of good government. And particularly in this age, when centralized wealth and predatory special interests are assailing the institutions and servants of the people upon every side, as they have never in the history of the world been assailed before, it is the supreme and most delicate duty of every public servant, and particularly of the delegate of the people in their law-making assemblies, not only to keep himself free from the touch and stain of this contaminating foe, not only to lend no countenance to either its open or secret operations and not only not to enlist or march beneath

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its azure flag—but, on the contrary, to keep an unslumbering vigil against it, to sound a loud alarum to the people at its first approach and to challenge and resist it whenever it appears.

A number of American State Constitutions contain a provision of the kind above recommended. These provisions are of the following tenor:

Any member of the general assembly who has a personal or private interest, direct or indirect, in any measure or bill proposed or pending before the General Assembly, shall disclose the fact to the house of which he is a member, and shall not vote thereon, nor solicit the vote of any other member thereon.

Such a clause would be germane, in a general way, to section 17 of article 3, which provides that no senator or delegate, after qualifying as such, shall, during the period for which he was elected, be eligible for any office created during such term.

VI.

Engrossed Bills Should be Abolished.

The act to amend section 27 of article 3 of the Constitution so as to abolish the engrossing of bills and to provide that they be printed in clear bold type, recommended by the Committee of Judicial Administration and Legal Reform of this association, ought to commend itself to the people of the State. It is to be hoped that the next General Assembly will propose this amendment to the people for their approval.

Anyone who is familiar with the proceedings of the State legislature knows perfectly well that the present method of engrossing bills is a waste of public money and, what is just as bad, a waste of public time. It has been estimated that it cost the State $50,000, at a session, for the work of

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engrossing alone. The delays and embarrassments growing out of this constitutional luxury are at times a serious matter, especially towards the close of the legislative session, when the bills awaiting final action are piled up, "Pelion upon Ossa," on the Speaker's desk and in the engrossing rooms. Oftentimes, this state of affairs is brought about in some mysterious way for the purpose of requiring the employment of additional engrossing clerks. Amendments made to bills on their second reading and returned to the house in which the bills originated are loosely pinned or folded in such bills and are in danger of being lost or stolen. It is not an uncommon thing for several hundred bills to be in this shape during the last two weeks of the session. Under such circumstances, besides the danger of the misplacement or theft of these insecurely attached amendments, they must run the additional chance of clandestine alteration or of mistake in engrossing them.

Taken all in all, the engrossing of bills, as now prescribed by the Constitution, is a source of vexation, delay, interruption of public business, danger of loss or alteration of legislative measures, and pecuniary extravagance and waste.

VII.

Corrupt Lobbying Should be Stopped.

The next amendment which I beg to urge is one prohibiting corrupt solicitation of public officials and particularly members of the General Assembly for the purpose of influencing them in the discharge of their duties. I suggest a *self-executing* clause in the Constitution for that purpose. The object of such an amendment would be to destroy the practice of corrupt lobbying among members of the legislature. It will be noted that it is not proposed to attempt to stop persons from advising with or soliciting their representatives in the General Assembly in a proper way. *Corrupt*

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solicitation is the object of the prohibition and of the penalties to be denounced. Such a section in the fundamental law would lay the axe, as far as legislation can lay it at all, at the root of the "lobby" evil. Such provisions exist in a number of the State Constitutions. In our own, it would be quite germane to the general subject matter of section 50 of article 3 of the Constitution which makes it the duty of the General Assembly to provide laws for the punishment of bribers of public officials and of such officials who shall demand or receive bribes in connection with their public duties. The following is substantially the form in which the section here suggested for addition to our Constitution is found in the Constitutions of some of our sister States:

The offence of corrupt solicitation of members of the legislature or of public officers of the State or of any municipal division or municipal corporation thereof, and the occupation or practice of corrupt solicitation of such members or officials to influence their official action shall be a crime, and shall be punishable by a fine in the discretion of any court having criminal jurisdiction in the State and also by imprisonment in the penitentiary of the State for a period not to exceed three years.

VIII.

Competitive Bidding for State Supplies.

The next and final amendment which I have to propose is in the interest of public economy and consists of a clause contained in several of the more recent American Constitutions to the effect that all public supplies for the State shall be purchased under contract to be awarded to the lowest responsible bidder. Such a provision in the charter of Baltimore City has been a source of retrenchment and saving to the municipal treasury. There is no reason why a like policy should not be more extensively adopted by the State.

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Such a clause in the Constitution of the State could not fail to appreciably reduce its expenditures and still further lighten the burden of State taxes. A clause in the following form is suggested:

All stationery, printing, furniture, fuel and all other supplies used in the legislative and other departments of the government shall be furnished, and the printing, binding and distribution of the laws, journals and department reports, and all other printing and binding, and all repairs of public buildings shall be furnished and purchased under contract to be awarded to the lowest responsible bidder under such regulations as shall be prescribed by law, and the General Assembly at its first session held after the adoption of this section of the Constitution shall enact such laws as may be proper and necessary to carry the provisions of this section into effect.

CONCLUSION.

A few words in conclusion, gentlemen, and I shall have done.

"The people are the source of power. It is *they* who make and abrogate written Constitutions."[21] These are words written in one of the most splendid of his judgments by the great Chief Justice of the State, whom we are all earnestly longing to behold again in his wonted health and strength upon the exalted bench where, as Erskine, speaking for the English bar of his day, said of Mansfield, "the oldest of us do not remember him with any other impression than the awful form and figure of Justice."

"The people are the source of power. It is they who make and abrogate written Constitutions." From the people, therefore, our Constitutions, for better or for worse, must spring. To the people, therefore, the efforts of this association in behalf of improved laws and policies for the State must be addressed. With the people, its strong influence

[21]Warfield *vs.* Vandiver, 101 Md. 115.

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must be exerted. Wholesome laws can flow only from a wholesome public opinion. They can be enforced only by the same power. It is for us to hold out the lights which shall guide the people upon safe and ascending ways. It is for us not only to defend popular power—to which this day is dedicated—but to lift it up and enlighten it and thus to improve and perpetuate it. *This is the noblest work of all—the highest mission of the bar—to lead the people to ordain and to help them to enforce a pure administration of equal laws.*

This association is and should continue, to a constantly increasing extent, to be a potent force in the improvement of the State. And in performing that great service, not only shall we be fulfilling the high obligations of our profession to our own day and generation, but we shall be faithfully following and worthily upholding the traditions of a splendid past.

The President: If there is no discussion of the paper just read the next business in order is discussion of reports of Committees. We will first discuss the report of the Committee on Judicial Administration and Legal Reform.

William C. Devecmon, of Cumberland: Since yesterday the Committee has had another meeting and instructed me, in the absence of the Chairman, to report and recommend this bill and this resolution:

A Bill entitled, An Act to require that all affidavits required by law to be made shall be signed by the affiants, and providing penalties for officers taking such affidavits without requiring the affiants to sign them.

SECTION 1. Be it enacted by the general assembly of Maryland, That from and after the first day of July, 1908, all affidavits required by law to be made to any mortgage, bill of sale, in any judicial proceeding, or for any other purpose, shall be signed by the affiant or affiants making them; but any such affidavit without the signature of the

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affiant or affiants thereto, shall be as valid and have the same effect in law as though this act had not been passed.

SECTION 2. And be it further enacted, That if any justice of the peace, notary public, or other officer authorized by the laws of this State to take or administer affidavits, shall certify any such affidavit without first requiring the affiant to subscribe it, any such officer shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined not more than fifty dollars, to be recovered as other fines are recovered.

SECTION 3. And be it further enacted, That it shall be the duty of the several State's attorneys for the several counties of the State, and for the city of Baltimore, and of the attorney-general, to see that this act is enforced whenever a violation thereof shall be brought to their notice.

The Committee also reports the following resolution:

"*Resolved,* That the representatives from this State in Congress and in the Senate of the United States be and they are hereby requested to introduce and advocate the passage of an amendment to the existing Federal statutes so as to permit an appeal to the Federal courts, in cases where State statutes are held invalid by State courts as being contrary to the provisions of the Federal Constitution."

The President: Is that a report additional to the printed report heretofore submitted by the Committee?

Wm. C. Devecmon: It is additional to the printed report.

The President: The entire report of the Committee is now before you.

Eugene O'Dunne, of Baltimore City: I move the adoption of the Act in reference to the penalty in regard to affidavits without signatures.

Charles H. Stanley, of Laurel: I second the motion.

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Eugene O'Dunne: I would like to say a word on that bill. It seems to me that it would be the part of wisdom to adopt it as recommended by the Committee. It would close the door to a great deal of fraud that is now being perpetrated through magistrates in getting bonds on attachments. There was one very glaring instance which came to light in the city of Baltimore where a man gave a bond in an attachment suit and caused some unidentified person to come down and go on the bond as surety. The proposed surety presented himself before the magistrate and made an affidavit as to being the owner of a certain piece of property which did not even exist, and now he cannot be found or identified, whereas, if his signature had been required to be attached to the affidavit, it certainly might have been some means of identification, especially if any particular person was suspected of impersonating somebody else.

As to the penalty part, according to that bill as I heard it, it is placed on the officer taking the affidavit. We have a somewhat analogous provision for that kind of punishment in the marriage act, which punishes a minister who shall marry persons who have not a license, and yet the marriage so performed is valid. That feature is adopted in this bill and the affidavit itself shall not be invalid; otherwise in trying to cure one evil it might cause a greater evil to follow.

I am not the author of the bill nor had I anything to do with it, but I think it is a very wise provision and one which ought to pass.

John P. Poe, of Baltimore City: I would like to ask a question. We have presented to us a supplementary report from the Committee on Judicial Administration and Legal Reform recommending a bill which we know nothing about and which is brought up for discussion, while matters carefully considered and printed and brought before us prior to the meeting, are laid aside.

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May I ask why that is done and this bill is taken up at the present time?

The President: You will have to ask the Chairman; I called for the report of the Committee and this has been submitted to us as part of the report of the Committee.

Wm. C. Devecmon: If the gentleman asks me why it is done, I can say that I am sure I don't know why it is done. It is for the Association to answer that. I made the report from the Committee and some member of the Association moved that this bill be recommended and adopted and no motion was made in regard to the main body of the report. The whole report is before the Association and it is for them to take such action as they may see fit.

L. Allison Wilmer, of La Plata: I move that the supplementary report be received and that we proceed with the consideration of the main report.

The motion was adopted.

The President: The report of the Committee is now before the Association for its action.

John P. Poe, of Baltimore City: I suppose the Committee would hardly move that the report be adopted in bulk. Therefore, in order to start the matter I move that we take up for consideration the bills in the order in which they are contained in the printed pamphlet.

The motion was adopted.

The President: The first bill is on page 1 of the report. What is the pleasure of the Association in reference to this bill?

B. Harris Camalier, of Leonardtown: I move that we recommend the passage of this bill for the appointment of a commission. I think it is a very necessary and essential matter.

Charles H. Stanley, of Laurel: I second the motion.

Wm. S. Bryan, Jr., of Baltimore City: There is no provision in the bill to fill vacancies.

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John P. Poe: I do not think that there was any such provision in regard to the commission to prepare the corporation laws of 1868. I am not aware that any such provision was inserted in the law passed in 1902, I think it was to appoint a commission of three. I take it, if any one of the three should die, the other two could go on with the work. I think that is a sufficient answer to the criticism made, and the legislature, when the scheme is presented to them, can insert any reasonable provision to meet that contingency.

Wm. S. Bryan, Jr.: I still think, with all deference, that there should be some provision to fill vacancies if any should occur.

Am I to understand that the Association proposes to have the body of the criminal law codified like the penal code of India by England or merely to go over the crimes and punishments in the code and put them possibly in a more orderly arrangement?

William C. Devecmon: That is left to the commission.

Wm. S. Bryan, Jr.: It might be very undesirable to have anything like the criminal code put into the hands of any commission to codify. It would be much better to have it as a growth and as it is developed from the decisions of the courts than that it all should depend on some particular codification. I have not had an opportunity to consider the matter very much, but I think it would be rather an unwise thing to do.

Anson in the preface to his work on contracts says that the English law of contracts is a monument to the sturdy good sense of the English judges. The English law of contract was not the work of a draftsman who drew an enactment and embodied the whole law of the subject.

The body of the criminal law of Maryland is better as it stands today than it would be as coming from the hands of any draftsman no matter how able or careful he should be. It seems to me it would be a very dangerous

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thing to do and lead to a great deal of confusion to have that put in the form of a code. In New York it caused a great deal of litigation and did away with a great many precedents made by previous decisions of the court.

Apart from that I do not see any occasion for it. The last few years, as attorney-general, it has been my duty to try criminal cases in the Court of Appeals, and I have had no difficulty to find out what the law is. I have won some cases and I have lost some. We have now here present several judges, some of whom sit at *nisi prius* and others on the Court of Appeals, and it might be well to ask them if they know of any structural defects in the law which require the whole matter to be codified. There may be certain statutes which ought to be passed. I do not express any opinion on that. There may be certain instances where legislation would help the law, but it seems to me an unnecessary labor and a dangerous thing to attempt to codify the whole body of the criminal law.

Mere matters of procedure I think anybody can find by looking at the Code of 1904. It contains all the criminal statutes in orderly arrangement. I do not see any occasion for such a codification and when there is no occasion for any change in the law it is not a wise thing to make a change. One of the fundamental things in our system of laws is the growth under enactments. It comes about gradually, little by little, each portion of it as the occasion arises for it.

Therefore, it seems to me, with all respect to the more mature consideration of the Committee, that it is an unwise thing to have a codification of the body of the criminal law or a codification of the procedure. The thing is well enough as it is and it is best to let well enough alone. The beaten track is the safe track. If some radical measure is adopted or some omission made it might lead to a great deal of inconvenience; and there is no crying need for such a change. It is not like the English criminal law

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when it had exceedingly severe penalties. The law is in good condition as it is and I am not in favor of the recommendation of this law unless I hear something in the discussion which may lead me to change my opinion.

Eugene O'Dunne, of Baltimore City: I have great hesitancy in submitting anything which is not in accordance with the mature judgment of the Attorney-General with the larger experience he has had at the bar. But I desire to say that, while the criminal law may be a growth, it seems to me it is a mere fungus growth. It seems to me that there are a great many glaring defects in it which ought to be remedied. You can commit murder in the State of Maryland and there is no jurisdiction in which you can try it, right here in the Chesapeake Bay. We passed statutes to cure these evils and the result is a crazy-quilt.

My idea about the matter is to entrust the codification of this important work to a committee, with which I have not the least desire to have anything to do except to make suggestions for the different things of which I have had notice. It would be a wise thing to have the law codified and put in that shape. I do not mean classified. I think the arrangement of what we have had done has been beautifully, logically and legally done; the codifier has done well with what he had to codify. If things ought to be there which were not there or if things were there which had not any business to be there, of course that was not his place to rectify those things. All that was to be done was to codify the existing law. I think it would be a wise thing to have a committee prepare a body of criminal laws for the State of Maryland, taking from other States those things which experience found to be good, and taking from our code those provisions which we have found to be inefficient and harmful.

Wm. C. Devecmon: If the absence of Mr. Donaldson, the Chairman, throws on me the work of defending the

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report in regard to criminal law matters I want to say that I have had no experience in the criminal law, and I am wholly incompetent to speak of its deficiency. This act was prepared by two members of the Committee who have had experience as State's attorneys. I was present at every meeting of the Committee and know that all their recommendations were very carefully considered. I also know that most States in the Union have codified their criminal law when they have not codified anything else. It is true that to attempt to codify the law in regard to contracts would be extremely dangerous and difficult because no one can ever tell what kind of contracts future generations may bring; but it is hardly probable that new crimes will be invented by human ingenuity in the future which have not already existed.

At present it seems that our system of criminal jurisprudence is very vague and uncertain. This bill simply appoints a commission which shall draft a code and report it. The report will then have to be considered by a succeeding legislature and as to whether it is wise or not that legislature can determine.

John Phelps, of Baltimore City: Of course the codification of our criminal law is a very serious and important undertaking, and it is well worthy of our consideration. If we were a legislative body we should undertake it with great care and consideration; but bear in mind that we are not the final arbiters of this question, but simply suggesting the appointment of a channel for the revision of the law. The commission which will be appointed will, presumably, be an able and efficient one, careful and conservative. It stands to reason that the commission will not act hastily on the historical development of the criminal law of this State, and in addition to that, as suggested by Mr. Devecmon, the result of their deliberations will go before the legislature, which is a deliberative body, and will receive careful consider-

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ation. In other words it will have a series of gauntlets to run before it can be enacted into a statute.

I wish, however, to add my humble testimony from my observation and experience that the criminal code of the State, granting as true all that the learned Attorney-General has said as to the superiority of the development of the law by decisions and interpretations, that it is a law which is developed by hodgepodge from statutes prompted for one reason or another, and acts are defined as crimes to which penalties are appended entirely out of proportion to the offense. I cannot go in detail in regard to the matter and give a résumé of all the crudities in our criminal law, but take the section on malicious destruction of property; the common law covers that point in a very brief and comprehensive manner. But we have statute after statute and section after section in regard to different kinds of malicious destruction of property, each one of them suggested by some individual suffering some grievance who goes to the legislature and gets an act passed in regard to the matter—such as the malicious destruction of a stack of corn, punishable by four years' imprisonment or the malicious destruction of tobacco stalks by ten years' imprisonment. All of these things are existing absurdities in our criminal code and have entirely swept down the common law rule on the subject. So the result is now that you cannot indict any one for the malicious destruction of property unless the particular character of property is described in some section of the code.

The law in regard to cruelty to animals has become very much obscured and difficult. Mr. Hochheimer had a law passed in 1900 and it was repealed in Baltimore City by the charter. So it is in other instances. It is a crude system, not a system which has grown up by the interpretation of judges, but it is the patchwork of

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statutes which so far have not been codified except to gather them into a code.

In the hands of conservative people to make a thorough revision, to be afterwards acted on by a conservative legislature, I think the result will be good and no harm can be done. I, therefore, am in favor of the recommendation of this bill.

B. Harris Camalier, of Leonardtown: I agree with the gentleman who has just taken his seat. I think there is a great necessity to simplify the criminal law of the State. I have had an experience of twelve years as State's attorney in one of the counties and I think every State's attorney in the State will say that it is necessary that there should be a simpler manner of presenting criminal cases.

Nine-tenths of the cases presented to the courts throughout the State are quashed because of informalities. It is for that reason, if for no other reason, I think, there should be a revision of the criminal law and I am in favor of recommending this bill.

In 1860 there was a similar commission appointed. They suggested a codification of the laws at that time if I am not mistaken. In all the other States there have been codifications of the laws, but in Maryland we have not had any change since that time; therefore, I favor the bill.

John P. Poe, of Baltimore City: I confess I am somewhat impressed by what has been said by the learned Attorney-General and it seems to me, in view of the fact we are not a legislative body but merely making suggestions to be acted on by the legislature, it would be well for us not to frame *in extenso* acts of assembly, but to express our recommendations in general terms and then leaving the matter to be amplified by the legislature, and then it can be put into statutory form and shape by the appropriate power. Hence I beg leave to offer as a

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substitute for this pending draft of a bill the following resolution:

"*Resolved,* That it is the sense of this Association that a careful revision and codification of the criminal law of this State is imperatively demanded and that the general assembly shall be requested by our Committee on Laws at the next session to pass an appropriate law providing for such revision and codification."

Wm. C. Devecmon: Before putting the question I wish to say a word to the Association. When Mr. Sams was elected president of this Association he inaugurated a new system. The fundamental change in previous conditions was to put recommendations in concrete form. We have been having papers and reports read here ever since this Association has been in existence, but they simply contained recommendations and never heard of afterwards.

When the new system was inaugurated this Committee was appointed for the express purpose of going through the published reports of the Association to see what had been done and to put previous recommendations in concrete form so that some good could come out of the existence of this Association.

If we now go back to the old plan and simply make recommendations to the legislature, what will be the consequence? Nothing. Nobody will draft the bill and nobody urge its passage. If this is done the whole purpose of this Committee will have been frustrated. The whole object of the existence of this Association, so far as changing and improving the laws is concerned, will be defeated. Nothing will be done unless we can put our recommendations before the legislative body in a concrete form and unless we can say that this particular bill has our approval.

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Blair Lee, of Rockville: It has been suggested that something specific and definite should be submitted by this Association. Along that line I would like to suggest two amendments, one after the word "profession" in the fifth line of the first section as follows: "With power to apportion remuneration and appoint a successor in the event of death or resignation."

The second amendment is in the sixth line of the second section and is to strike out the words "One thousand" and insert the words "Two thousand."

I make the suggestion in view of the fact that this proposition should be taken seriously by the body making the recommendation and also taken seriously by the legislature, and, if this work is to be done faithfully and to be done wisely, one thousand dollars is so small a sum as to almost indicate it is not to be taken seriously. Certainly any recommendation as to compensation would be taken into consideration by the legislative body considering the bill and, while some reduction might be made, there would not be apt to be any increase.

The President: The substitute moved by Mr. Poe for the whole bill is in order and the question will be put on that first unless the substitute is withdrawn.

John P. Poe: My proposition was that the legislature shall be approached by a committee representing this body, to wit, the Committee on Laws, and that it will be their duty to go to Annapolis next winter and lay before the legislature the opinion of this body and in laying that opinion before the legislature they may accompany it, if they please, in a concrete form by submitting a draft of a bill which will cover the subject.

J. Clarence Lane, of Hagerstown: It has been announced upon the floor that this is a new departure. New departures are dangerous and I cannot help but feel that the attorney-general and our distinguished

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ex-attorney-general have sounded a correct note of warning.

Is it, or not, a wise departure; is it, or not, a dangerous departure? Will it, or not, injuriously or advantageously affect the work and purposes of this Association? We are making a new departure; what are we undertaking to do? We are undertaking to do something which this Association never has done; we are undertaking to make ourselves an adjunct of the legislative body of this State. How will the legislature and the people of this State receive such an attempt on the part of this Association? They may receive it as it is intended or they may receive it as perhaps a somewhat presumptuous thing on the part of the Association to frame the laws of the State and present them to the legislature. If presented, it is suggested that it will not be amended, assuming the influence of this body is such before the legislature and in this State that whatever it might see fit to propose must, therefore, be accepted. It strikes me that the proper method to pursue is to make suggestions but not to draft bills.

And there is another reason. We come here for two or three days at a time. What is our practice at these meetings? It is to listen to well and carefully prepared papers and then to indulge ourselves in various forms of amusement. Our Committee formulate these propositions as best they can in their busy hours and meet two or three times and prepare a report and discuss the prepared bills. They come here and report sixteen bills to the Association involving serious questions, that ought to demand from a body like this careful consideration and it is absolutely impossible in so short a time to give these bills such consideration.

There is no danger if we take up a simple proposition for the amendment of the law looking to the improvement of practice, but, when you ask a body like this to

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deliberate on sixteen specific propositions involving serious questions of political economy and law, you are doing what will establish a precedent which will come back to plague you. It is not fair and just to the Association to ask it to do it and if it is done, you will subject the Association to criticism and we have done something which, perhaps, we ought not to have done.

The legislature has plenty of time. It has three months. And is assembled for the purpose of considering and forming and enacting laws; and here in three days it is proposed that we pass on the form and substance of sixteen important measures. I say, gentlemen, we ought to adhere to our former practice.

Harry E. Mann, of Baltimore City: I only want to say one word in defense of the present administration.

The President: Do not defend the present administration. I am afraid the gentlemen from Washington County has read neither the constitution nor the report of the Committee.

Harry E. Mann: As long as this Bar Association has been in existence I think the only instance in which anything was accomplished at Annapolis was the recommendation for the judges' pension. When our present President was inducted into office, in view of the fact that former recommendations of this body had accomplished nothing, he decided to get the Committee on Judicial Administration and Legal Reform to put in concrete form the matters that they would recommend to the Association so that there would be something to act on. The experience of every one who goes to Annapolis to get legislation is that you are immediately told to bring your prepared bill and unless this is done nothing can be accomplished.

In accordance with that object, he has worked as hard as any man could work to get his Committee to put those things in such shape they could be acted on

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intelligently. These papers have been mailed to members of the Association weeks ago and if any one comes here not prepared to discuss them that is the fault of the gentleman himself.

I do not think it is fair to the Committee, after it has done all this work which you can see for yourselves involves hours of labor, to throw their work aside. The thing which my friend Mr. Poe suggests he wants the Committee to do next winter is just what they have done now. He proposes that they go down next winter to the legislature with a bill and recommend its passage. Is it for the Committee to say whether the bill is proper to be endorsed by this Association? His motion simply postpones the matter until the next legislature meets; to postpone that which the Committee asks us to do today.

How we can bring this matter to the attention of the legislature unless we put it in this shape, I am unable to say. We are just now at the parting of the ways. If we go back to the old system of attempting to do this kind of work, we might as well amend the constitution and abolish the Committee on Laws because they cannot do anything.

We do not pretend to dictate to the legislature, but simply tell them we think this legislation should be passed, and, if in their wisdom they agree with us, it is passed; if not, it is thrown aside. But this is the only way to get legislation, and nothing can be done unless you take a bill down there.

L. Allison Wilmer, of La Plata: I do not want to prolong the discussion. Although I am a member of the Committee I cannot claim the credit of framing the laws; it has been done by other members of the Committee. I want to reply to what my friend Mr. Lane said characterizing this as a new departure. In a way it may be called a new departure, but it is not. I may say that it is the first time with one exception,—when a

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bill was framed for pensioning the judges,—that the constitution has been strictly carried out.

What is the object of this Association? Read Articles II and X of the Constitution. In Article X the Committee on Laws is required "to take notice of all proposed changes of the law, and to consider and report to this Association such amendments of the law as in its opinion should be adopted."

Is not this Committee exactly and accurately carrying that out? I had no hand in preparing these measures, but is not this a good thing they have done at the suggestion of the President? He had in mind the carrying out of Article X of the Constitution when he proposed that the Committee should do this work. I am satisfied that the Committee, under his direction and inspiration stimulated by his zeal and activity, thought they were carrying out the Constitution when they with great care prepared this report, whether we agree with them or not.

Mr. Mann has referred to those who have had occasion to go down to the legislature. I have had to go down there on several occasions with some local bills and I have always had to prepare them myself or get our friend, Jim Owens, to do it. He has said that he can write several different kinds of bills. He has said, "I can draw any kind of bill you want, with snakes or without snakes."

These bills were mailed weeks ago to every member of this Association and nobody is taken by surprise. We are here to receive the report of this Committee and to discuss it. We are supposed to be able to prepare bills to be enacted into law.

We are the representative men in our communities and have more weight than any class in any other profession or business.

When the legislature knows that a bill has been proposed by a Committee of this Association, that it has

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been discussed seriously by this body, and that it has been approved by a majority of the members of this body, then it goes before the general assembly with great weight. I think we ought to face this thing as it is and have the courage to say whether or not we do or do not propose certain things. Let us determine whether it is right and proper, whether it is presumptuous, or whether the legislature will consider it presumptuous, for us to propose in concrete form a definite act approved by the members of this Association and endorsed by us.

It is very certain unless the governor shall appoint three men from among the very best members of the bar in Maryland, the object of this bill will be a failure.

This bill simply proposes that the governor shall have authority to appoint three members of the bar, learned in the law, who shall take into consideration the revision and codifying of the criminal law of this State and who shall draft a law revising and codifying the code and have it ready for submission to the next general assembly after the passage of the act, so that it will not come up until 1910.

I do not feel competent to go into the merits of the question whether it would be a good thing to have the crimial law codified, but no harm can come of the recommendation of this bill and the work of the commission may be a distinct benefit. I am in favor of adopting this part of the report with the amendments, and I do hope that the substitute will not pass.

The President: The first motion is that this bill be approved by the Association and Mr. Poe has offered a substitute.

George Whitelock, of Baltimore City: Mr. Lee moves an amendment.

The President: The question is first on the substitute by Mr. Poe, which is as follows:

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"*Resolved,* That it is the sense of this Association that a careful revision and codification of the criminal law of this State is imperatively demanded and that the general assembly be requested by our Committee on Laws at the next session to pass an appropriate law providing for such revision and codification."

Eugene O'Dunne, of Baltimore City: I want to ask Mr. Poe whether he has any objection to leaving out the word "codification" in his resolution.

John P. Poe: None whatever; I will just stop at the word revision and leave out the words "and codification" wherever they occur.

David G. McIntosh, of Towson: I was about to raise the same question. I think it is the sense of a good many gentlemen present that there is a decided difference between codification and revision. Many members present are quite agreed that a revision of the criminal law is highly desirable, but are not so clear about the propriety of a codification.

I thoroughly agree with and endorse the remarks of my friends, Mr. Mann and Mr. Wilmer. There is certainly room in a body of this sort for a little practical work to be accomplished. When we meet here and have this opportunity of conferring, it seems to me we would be abandoning one of our functions if we deliberately, by vote, adopt the substitution now proposed. It would operate not only against the action which has been had in proposing this law, but it will be a declaration on the part of this Association of a policy to offer no legislation in the shape in which this is prepared, but that we decline to put ourselves in that position and leave the matter to the legislature just as it has been in the past.

I do hope and trust that if this Association has the good of the profession, the good of the State, I may say, at heart; if we think we can in any manner properly influ-

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ence legislation, that we should go about it in some such practical form as this; and I earnestly trust the substitute will not be adopted, but that we move forward on the lines here laid down.

The President: The question is now on the adoption of the substitute of Mr. Poe.

The question was put and decided in the negative.

The President: The question is now on the amendment of Mr. Lee to the first act.

Wm. C. Devecmon, of Cumberland: Before the motion is put I would like to say this: While the bills were drawn with care, and considerable time spent on them, yet in regard to these amendments or changes which are proposed, I would like to suggest that if these bills are going to the legislature as fixed and intangible bills, I think it will be a mistake. I think it is the substance of the bill that we should get and that we should not spend any particular time in regard to verbal changes. If those bills are going to the next Committee on Laws with instructions to present them to the legislature, I think it would be the part of wisdom to allow that Committee to make verbal changes in its discretion and not bind them, as it seems to me they would be bound by this resolution, to stick to the exact language.

The President: The question before the house is that the proposed bill be approved and Mr. Lee has offered two amendments.

Blair Lee, of Rockville: I withdraw the amendments I offered.

Joshua W. Miles, of Princess Anne: I move to strike out in line 2, and wherever they occur, the words "and codify," so that the powers of this commission will be limited to the work of revision.

John R. Phelps, of Baltimore City: I second the motion.

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Joshua W. Miles: I only want to say that I have had some experience in criminal law for some years as State's attorney in my county and my experience has taught me that revision is necessary as a matter of policy, but I do not believe codification ought to be recommended by this Association.

The President: The question now recurs on the amendment to strike out the words "codify" and "codifying" where they occur in the proposed act.

The amendment was adopted.

The President: The question recurs on the original bill as amended.

Wm. C. Devecmon, of Cumberland: I would like to suggest an amendment which was suggested by Blair Lee and which the Committee might not feel they had authority to change, and that is, to strike out the words "one thousand" where they occur in the bill and insert the words "two thousand."

The motion was adopted.

The President: The question is now on the motion to approve the bill as amended.

The question was put and the bill approved.

The Association then adjourned until 10 A. M., July 5th.

MORNING SESSION.

JULY 5, 1907.

The President: The first business in order is the address by Herbert Noble, of New York, on "Representative Government Under the Constitution and the Government As It Is." Mr. Noble unfortunately was called away to Europe very suddenly and is unable to be with us and sends us this cablegram: "Greetings Bar Association. Sorry to be absent."

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The next thing in order is the paper by John Phelps, of Baltimore City, on "Brokers' Commissions on an Unexecuted Contract of Sale." I have the pleasure of now introducing to you John Phelps.

BROKER'S COMMISSION ON UNEXECUTED CONTRACT OF SALE.

By John Phelps, of the Baltimore Bar.

When the distinguished opportunity was suggested to me by our president to address the Maryland State Bar Association upon the topic, "Broker's Commission on Unexecuted Contract of Sale," I replied at once: "Impossible. My views on the subject have been overruled by the Court of Appeals." He informed me that a similar affliction had recently been visited upon him, but that he was rapidly recovering, indeed, he assured me, that the attack, though common, was rarely, if ever, fatal, and suggested that I start at once upon my process of recovery. This I cheerfully consented to do.

In the spirit of chastened humility I found myself in, I questioned whether the subject suggested would appeal to the interest of an assemblage, whose attention had been devoted to the consideration of loftier topics of constitutional law. It transpired, however, that there was a sentiment both at the bar and among the brokers, that the present rule of law on the subject should be altered by statute. As one of the chief functions of this association is the consideration and suggestion of proposed legislation, it seemed, therefore, that some presentation of the merits of a change in this subject might be of assistance in reaching a conclusion as to the advisability of such legislation. Moreover, the question also affects the lawyer from the less elevated, but none the less practical, standpoint of the *quasi* brokerage business, in

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which many often engage as part of their practice. The subject, therefore, may not, I trust, prove unworthy of your attention.

The rule referred to was announced in the recent case of Riggs *vs.* Turnbull, decided by the Maryland Court of Appeals February 28, 1907 (66 Atlantic Rep. 12; *Daily Record,* March 9, 1907). In that case, a broker employed to sell real estate procured a purchaser who entered into a binding, written contract of sale with the principal, but who, after some payments on account, defaulted and was unable to perform the agreement. The vendor subsequently released the contract on payment of a further sum.

The court held, that in this State, a broker must produce a purchaser who ultimately, and in fact, buys and pays for the property, except in the single case that his failure to complete is caused by the fault of the vendor.

The generally accepted contrary view adopted in almost every other jurisdiction is thus stated by our court:

"When the purchaser presented by the broker is accepted by his employer, and they enter into a valid, binding and enforceable contract of sale, the broker is entitled to his commissions, whether or not the contract is actually carried into effect and the sale made."

It will not be part of my treatment to trace in detail the history of the Maryland law on the subject, leading up to the case mentioned, nor to discuss that case; much less to suggest any criticism upon the conclusion arrived at from the prior Maryland authorities. The learned court, finding the rule established by their predecessors, and so deciding, the matter is no longer open for discussion from a forensic standpoint. But the reason and policy of the rules pro and con will be of interest in the light of any future enactment, and may with decorum be freely discussed to that end. This makes it proper to investigate the rule generally adopted outside this State, and determine whether it is founded on sound and substantial reasons.

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I will attempt to clarify my subject by first eliminating certain classes of cases which are wholly collateral to the inquiry, the lack of distinguishment in regard to them having given rise to error and obscurity in some cases. Observe, that we are dealing at the same time with two separate and distinct contracts, first the contract of employment of the broker, and second, the contract of sale procured by the broker.

As to the contract of employment, we can obviously be dealing only with the implied contract which the law raises from the mere employment of a broker to sell. That obligation arises purely from the relation of principal and agent. As the broker is a special form of agent, his duties and obligations are further determined by the customs of the business, and the evolution of those customs as they have been developed and crystallized into law by judicial decisions. This implied contract is not easy to define with precision, but there are certain limits which can be established and beyond which it does not extend.

The broker employed to sell real estate undertakes to procure a purchaser who is ready, willing and able to buy the property at the price and on the terms previously authorized by the owner, or at such price and on such terms as the owner subsequently agrees to and does accept. The principal undertakes to pay the customary commission on the production of such purchaser. He also impliedly agrees that if such purchaser is produced, he will contract to sell to him, for should he refuse without good cause, the broker may nevertheless recover his commissions, provided he meets the burden of proving that the purchaser was ready, willing and able to purchase on the principal's terms, and was one that the principal should accept. He is a mere middle man to negotiate a bargain and not execute it. It is not part of his implied obligation to procure a binding contract of sale, and he does not guarantee the success of his undertaking, but is bound to exercise the utmost good faith, and to use reason-

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able skill and diligence in his employer's interest. (Mechem Agency, Sec. 951, 952, 966; Story Agency, Sec. 28-32.)

This implied obligation may be varied to any extent by express agreement between the principal and broker. But with all forms of such express contracts we can have nothing to do, and must totally exclude them from our consideration. Obviously, the parties may make the broker's commission depend upon any contingency they agree upon, and quite reverse the implied obligation. Thus, the broker may, if he sees fit, agree that his commission shall not be earned unless and until the purchaser produced by him actually purchases and pays for the property. (1906 Chapman *vs.* Winson, 91 L. T. Rep. N. S. 17.) Since the parties thus determine their own obligations, we cannot develop a rule of implied contract from such cases, passing merely upon the intention and language of the parties in their express contracts.

Passing now to the contract of sale, the result of the performance of the broker's employment. It is absolutely requisite that the contract should be valid, binding and enforceable to enable the broker to base his commissions upon it. The reasons for the rule are founded upon the obligatory nature of the contract whereby it becomes a sale, the ordinary but not infallible test being whether the contract could be specifically enforced against the vendee.

Therefore, to further eliminate elements of obscurity and confusion, let us discard all cases where the sale is not of this binding character.

We must eliminate, therefore, (1), contracts in their nature illegal for special reasons as contravening some express statute or rule of law or policy; (2), merely verbal agreements of sale, not enforceable by reason of the statute of frauds; (3), incomplete and inchoate agreements, whether written or verbal, where there is not that complete meeting of the minds of the parties required to make a binding contract. (McGavock *vs.* Woodlief, 20 How. 229); (4), executory contracts for sales *in futuro* and not *in praesenti;* (5),

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conditional contracts in which the condition or contingency has not been fulfilled; (6), options; (7), contracts in which a forfeiture is provided as liquidated damages for non-performance by vendee, by which vendee may relieve himself of the obligation. (Semble Kimberly *vs.* Henderson, 29 Md. 512, authorities not uniform); (8), the rule applying only to sales of real estate, we must further exclude a miscellaneous class of cases not affecting the subject, viz: (a) sales of chattels, (b) charter party contracts, (c) ship brokerage and (d) loans upon real estate, although contracts for exchange of real estate are included in sales.

The general rule, therefore, is limited to cases where the implied duty of principal and agent is not varied by express contract and to such contracts for the sale of real estate as are valid, binding and enforceable.

There are two views in which this question is treated by the courts. The one from the standpoint of the broker's obligations, viz: that a binding contract is a sale in the sense of his implied agreement to sell. This we may call the view of the conclusiveness of a contract of sale *ipso facto.* The second, from the standpoint, of the principal's obligations, viz: that by accepting the purchaser, he has admitted that he is ready, willing and able to purchase, and is estopped to deny it. This I call the view of estoppel by acceptance. The latter applies equally to all cases, the former more especially to cases of solvent purchasers, although the distinction in application has not often been made.

The view of the conclusiveness of a contract of sale *ipso facto,* was put forward as early as 1851 in Louisiana, where a *promesse de vente,* under the French law, being a binding sale, the commissions of the broker were earned, notwithstanding the default of the purchaser. (Levinstones *vs.* Landreaux, 6 La. Ann. 26.) Then came the leading case on the subject. Glentworth *vs.* Luther, 21 Barbour (N. Y.) 145 (1855), in which the matter was established upon grounds ever since accepted as sound. The broker agrees to

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sell, and such a contract being a sale in the fullest legal sense, whether performed or not, is performance of the broker's agreement. That the commission is due from the time that a broker produces to his principal a party with whom the owner is satisfied, and who contracts for the purchase at a price acceptable to the owner, was shown to be manifest from the fact, that when this is done the broker has exhausted his power to act. He can do no more unless clothed with a power of attorney to convey the property, in which case he becomes more than a mere broker. And having thus done all that it is possible for him to do, he has certainly done all that he can be held to have contracted to do. This case is New York law at the present day, and the rule is always conceded without discussion. (Brady *vs.* Foster, 72 App. Div. 416, 1902.)

The same doctrine was then announced in Keys *vs.* Johnson, 68 Pa. 42 (1871), by Justice Sharswood, and about the same time in Massachusetts in Rice *vs.* Mayo, 107 Mass. 550 (1871). In Love *vs.* Miller, 53 Indiana 294 (1876), a vigorous effort was made to reverse the rule on principle and authority, and Judge Biddle in a comprehensive opinion reviewed the matter from both standpoints, and adhered to the rule. This case seems to have set the matter at rest everywhere.

Let us see what arguments the courts have had to meet in establishing this conclusion. These arguments are substantially the same which must be relied on to maintain the Maryland rule. They have had little or no judicial support, but are recurrently found in argument of counsel. Incidentally, we should require, to overthrow so many well considered decisions, the most sound and convincing arguments.

The broad claim is first made that, as matter of fairness, the broker's commission should depend absolutely upon the success of the contract he has secured, on the ground that his contract is in its nature aleatory, in which the large rewards are incommensurate with the labor involved and only

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justified from the large proportion of fruitless and unsuccessful efforts to effect sales.

What amounts to large reward is a relative question, and is measured not only by the amount of labor, but also the skill and knowledge of the broker and the value of the service if successful. The same argument would make it just that a lawyer's fee should in all cases be dependent upon his success in his client's cause, though, I confess, owing to the invariable modesty of lawyers' fees, the illustration may not be an apt one. Custom establishes the rate of commissions through long courses of dealings to which owners are parties. It is a matter of common observation that before the sale, owners rarely object to the amount of commissions, but gladly offer the customary rate. In other words, from the owner's standpoint, the difficulty and chances in his individual case and the value of the service to him, sufficiently justify the usual charge. The percentage of cases where the broker fails to effect any contract is necessarily large, and it is to cover those failures that his reward is large, supposing it to be a large one. The percentage of cases where the contract fails of execution is, on the other hand, necessarily small, inasmuch as the vast majority of purchases are in good faith with responsible parties, and are ultimately carried out. The broker's percentage of loss is, therefore, only inappreciably enhanced by adding the cases of defaulting purchasers. So that the broker has ample justification for his large reward in the failures naturally incident to his business.

But even if this were not so, the legal question cannot depend upon the size of the reward, but upon the legal relations of principal and agent. For even should the parties agree to a much smaller compensation, that would only affect the amount, and not the right of recovery.

It is next urged, that to permit recovery of commissions upon a defaulted contract would be to tempt brokers to make sales to irresponsible parties or "men of straw" for the mere

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sake of earning commissions. In the case of trustees, attorneys-in-fact or brokers clothed with power of attorney, there is no doubt considerable force and authority for this argument. (Melvin *vs.* Aldridge, 81 Md. 658.) In such cases, the power not only of negotiating, but also of signing a binding contract of sale is given the broker. This is a radical addition to the authority of a mere broker, and in fact, takes the power of rejecting the purchaser out of the owner's hands. The rule pre-supposes, and indeed is wholly grounded in the full and free power of the principal to reject or accept proposed purchaser, with full opportunity of investigation and information, whereby his acceptance becomes an act of prime significance and a finality.

But the objection last urged is met by the fact that the deliberate sale to a worthless vendee, in order to earn a commission is a palpable fraud, which would be held in every court to defeat the recovery.

It is also to be noted, that this argument necessarily concedes the general rule, when the default occurs from any reason other than inability. It also cannot apply to cases where the purchaser, admittedly solvent when the contract is signed, becomes insolvent before the time for performance.

It is said, that the general rule makes it incumbent upon every vendor to inquire and satisfy himself, not only as to the ability, but also as to the whims and caprices of the vendee. There is a material difference in the two cases since the financial ability of a purchaser at the time of entering a contract is a matter more or less open to investigation and inquiry, but the mere subsequent whims and caprices of a recalcitrant buyer cannot be foreseen or known by any human means. If the whims of the purchaser cannot be known to the vendor, no more can they be known or discernible by the broker, and could not be foreseen, although he exercise the greatest good faith, knowledge and skill, short of actual divination, which has never so far been urged as one of his implied duties, and clearly no obligation can be

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imposed upon the broker beyond his implied power. Where a purchaser, financially responsible, arbitrarily refuses, the vendor has confessedly not only the right, but the opportunity to enforce the contract specifically. To this we find it suggested that the broker is employed to make a sale, and not furnish his principal with an opportunity to embark on expensive and doubtful litigation. The answer is, that the broker, being a middle man, merely concludes the bargain on terms proposed by his principal, and has no voice in fixing the terms of sale. The vendor need not sell on credit or without security unless he chooses, and if he does so choose, and proposes his own terms of deferred payments, the risk, like the terms, is his and not the broker's. In other words, the rule of estoppel by acceptance covers the point.

The most frequent, and at the same time, the most plausible objection is a direct traverse of the fact that an unperformed contract of sale is a sale at all. The broker is employed to make an actual, completed sale; to procure a purchaser in fact, not a person who merely agrees to purchase, or enters into a contract with the owner. (Richards *vs.* Jackson, 31 Md. 250; Folkes J. dissenting in Parker *vs.* Walker, 86 Tenn. 571 (1888); dictum of Buchanan J. in De Santos *vs.* Taney, 13 La. An. 151, 1858.)

But this assumes what it should prove, namely, that the broker's implied obligation requires him to effect a completed sale, as distinguished from an obligatory contract. It presents this difficulty in answering it, that it is not an argument at all, but merely a statement of the contrary position. To answer it is merely to repeat the reasons for the fundamental proposition, namely, that the broker puts into the principal's hands the means of enforcing the completed sale, a matter entirely between vendor and vendee, and wholly beyond either the authority or the power of the broker. To say that a contract of sale is not a sale, and that the vendee is not a purchaser, is merely to quibble upon words. It moreover loses sight of the fact that the equitable title under such a con-

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tract is substantial ownership, and for many purposes, particularly in equity, possesses most of the material advantages and burdens of the legal title. To multiply illustrations of this familiar principal is unnecessary. We need only bear in mind the secure character of title under a bond of conveyance, under which vast amounts of property are held for indefinite periods; the insurable interest of the vendee; and the substantial similarity between the vendor's lien and mortgage, differing more in form than substance, more in remedies than in rights.

But this, it is finally opposed, while it may apply to sales to a solvent and responsible purchaser, against whom a decree for specific performance would be effective, fails to meet the case of a purchaser who defaults from sheer inability, and against whom specific performance would be but a barren remedy, and a suit for damages result in an uncollectible judgment. In such case, the broker's services are practically as ineffectual as if no sale had been made. The vendor must retain his property, and besides be put to expense, trouble and loss. From the retrospective view of the disappointed vendor, his broker had done harm and rendered no service, and he feels that it is a keen injustice that he should not only lose the sale and suffer damage, but that he should also be required to pay the broker a commission for getting him into the predicament.

Is this a real or only apparent hardship? By that, I mean is it a loss that the principal should properly bear as a natural incident of the business and the result of his own act, or is there any just ground on which the fault and the consequent loss can be saddled on the agent? For we cannot impose the loss on the broker, unless it results from some dereliction of his obligation, and in the absence of that, the hardship, if one, must be borne by the owner along with taxes and other inevitable evils incident to the ownership of real estate.

The doctrine of estoppel is of familiar and comprehensive application. In one aspect it means that a party who has

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acted upon and taken advantage of a situation as a reality, shall not, in the absence of stronger opposing equities, be heard, to the detriment of others not in fault, to subsequently assert the contrary, although the contrary be true.

Assuming that the broker undertakes to present a purchaser financially responsible, it is clear that the principal is not obliged to accept any purchaser offered. He has the right and privilege to call upon the broker to prove the purchaser's ability before he binds himself by the solemn act of a sale of real estate. If the broker makes false or misleading representations which induce acceptance of a worthless purchaser, his fraud loses his commission. If the principal neglects or chooses not to avail himself of the opportunity of thus protecting himself by throwing the burden of proof on the broker, and accepts the purchaser without inquiry, or is satisfied to accept him after inquiry without misrepresentation by the broker, he waives the right of imputing the fault to his agent, and is guilty of a fault of omission on his own part.

In a late Massachusetts case, the court starts with the assumption, that by procuring a purchaser who is unable to perform, the broker does not in reality earn his commission in the sense that he has performed his obligation to produce a purchaser able to buy and pay for the land, but by entering into a contract of sale, the principal accepts the customer as able to buy and pay for the land. (Roche *vs.* Smith, (1900) 176 Mass. 595.)

As an attempt to offset this principal of estoppel by acceptance of the purchaser, the theory has been put forward that the acceptance should not have this effect, being induced by the broker's representation of the purchaser's solvency—not an actual representation, but implied from the mere character of his employment. This must necessarily turn upon the true conception of the duty of the broker to his employer in presenting a purchaser.

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The relation of principal and agent, it is said then, is a confidential one, involving the utmost good faith of the agent to the principal, and the benefit of his skill, knowledge and advice. It is the implied obligation of a broker to produce a purchaser able to buy. The production of a person as a proposed purchaser, therefore, is an implied representation to the employer, that the purchaser is not only ready and willing, but able to purchase. The principal has no knowledge or previous acquaintance with the party and no means of exercising his independent judgment, and in signing the contract of sale and thereby accepting the purchaser, he relies, as he has a right to rely, upon the implied representation of the broker. (Butler *vs.* Baker, 17 R. I. 582 (1892).)

The same argument proceeds to admit, that if the broker at the time gave the principal such information as he possessed regarding the purchaser, or, if he had no information at all, simply notified the principal of that fact, then the rights of the parties would be quite different.

The above argument also implies, that when the principal has such knowledge, the doctrine of estoppel by acceptance should be applied to its full length. In case neither has such knowledge, the inquiry simply narrows down to the question on whom is the duty of inquiry to be imposed, on the broker who produces the purchaser, or the seller who accepts him? No suggestion is made that the broker must institute inquiries or satisfy himself, but only to communicate such information as he possesses, and if he possesses no information simply to notify the principal of that fact. We may concede, that the broker, to act in good faith, must not only avoid misrepresentation, but also avoid concealment of material facts. The only supposed duty, therefore, according to this view, is to inform the principal that he has no knowledge. This is too refined a distinction to be practical, for it is difficult to see what benefit the principal would receive from such statement, or how he could be misled by the absence of it. That it is also a false distinction, is shown by the fact that, as the

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broker is bound to act in good faith and not conceal material facts, the presumption of bona fides would unquestionably prevail, and in the absence of any disclosure to the principal, he, as well as all the world, would be bound to presume that the broker was acting in good faith and had no information to disclose to guide the principal in his acceptance of the purchaser. This is the uniform view of the cases discussing the question of obligation to inquire.

Thus, in Coleman *vs.* Meade, 13 Bush (Ky.) 358 (1877), a recognized leading case on the subject, it appeared, that the owner had known the purchaser for twenty years, and he was regarded by many persons as solvent. The owner actually made inquiries, and there was no fraud or misrepresentation by the broker of the purchaser's financial responsibility. In such a case, it is held, there is no express or implied undertaking on the part of the broker that the purchaser would perform the contract. The court stated the law in the following form, which has since been generally adopted as a correct expression of the relative obligations of the parties:

"The broker undertakes to furnish a purchaser, and is bound to act in good faith in presenting a person as such, and when one is presented, the employer is not bound to accept him, or pay the commission, unless he is ready and able to perform the contract on his part according to the terms proposed.

"But if the principal accepts him, either upon the terms previously proposed or upon modified terms then agreed on, and a valid contract is entered into between the principal and the person presented by the broker, the commission is earned.

"But if, as was the case in McGavock *vs.* Woodlief (20 How. 221), the principal rejects the purchaser, and the broker claims his commission, he must show, not only that the person furnished was willing to accept the offer precisely as made, but, in addition, that he was an eligible purchaser, and such as the principal was bound, as between himself and the broker, to accept."

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In Ward *vs.* Cobb, 148 Mass. 518 (1889) on the other hand, there was no evidence that the owner knew anything of the purchaser before the sale, nor that the broker had any knowledge of, or ever inquired as to his responsibility. The decision rested on the conclusion, that the vendor had seen fit to make a sale upon credit with no security except the deposit on the contract, thus throwing the burden of investigation upon the vendor in the absence of fraud or concealment by the broker.

In another case, the view is expressed that the vendor, after he elects to accept the purchaser and sign the contract, must be held to have considered and favorably determined the vendee's financial responsibility. (Wray *vs.* Carpenter, 16 Colo. 273, 1891.)

So in Greene *vs.* Hollingshead, 40 Ill. App. 197 (1890), upon the ground that the broker has no authority to make a contract of sale, but only to present a fit person with whom the owner, if he will, can make it, it was held, that if the terms of sale include credit to the purchaser, it is given at the vendor's own risk. The reason given was, that since the vendor is not bound to accept the offer without a reasonable opportunity to inquire and satisfy himself in relation to it, his acceptance should estop him from alleging anything against this claim, except fraud on the part of the broker in inducing the acceptance, or wrong done by causing the failure of the purchaser to perform.

Meanwhile, in England, the same doctrine had been reached independently and much earlier. In Horford *vs.* Wilson, 1 Taunt. 12 (1807), the broker procured a binding contract of sale with a party who was unable to complete it, upon which the vendor let him off. This was said, upon every principle of fair construction, to be a fulfillment of the broker's contract of employment.

The Queen's Bench Division in Passingham *vs.* King, 14 T. L. R. 39 (1897), announced the same rule in a case where the purchaser was shown to have bought merely on specula-

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tion with no present means of paying for the property, and defaulted on his purchase, because he could not resell at a profit. The principal, it was reasoned, had accepted the purchaser without inquiry, and chose not to enforce the contract.

It now only remains to mention a few general considerations to point out the inadequacy of the rule in this State and the general desirability for some conservative statutory alteration along the lines suggested.

Recurring to this rule, in the light of the foregoing discussion, it is open to question, whether in its present drastic form it does not strike deeper than necessary for any purpose, and possibly deeper than really intended by the learned court. Observe that it leaves no question open but actual and complete performance, not prevented by the vendor. Evidence would apparently not be admissible to show that the vendor had knowledge or notice of the worthlessness of the vendee. Both vendor and vendee may be acting in a spirit of reckless speculation, the vendor relying for gain upon the forfeited deposits. Vendor and vendee may arrange the terms of the contract upon indefinitely postponed instalments, with the intention of defeating commissions, yet under cover of this rule, no fraud could be imputed to such arrangement. The only fault attributable to the vendor is his causing the contract to fail, by refusal, by failure of title or other act after the sale. No recovery can any longer be had by a broker for commissions on instalments according to the previously accepted rule. No commissions can be earned in the case of a binding sale in good faith to an amply responsible and wealthy purchaser, who suffers financial reverses before time for performance. The principal, by wielding his binding contract, procured by the broker, as a club, may extort a compromise for substantial damages against the vendee far in excess of his losses, and yet owe the broker nothing; these observations may be hazarded as the logical results of the rule, but at the risk, of course, of being premature, since it remains for the Court of Appeals in particular cases, to pre-

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scribe how far the present rule shall be limited; yet until so limited we are bound to see that such are its natural consequences.

Nor is the rule now established necessary to protect the principal from hardship or from imposition. Other established rules upon the subject protect him, or offer him every facility for protecting himself. From all forms of fraud by the broker, the principal is protected by a rigid requirement of utmost good faith. Collusion with the purchaser and even acting on behalf of the purchaser, without actual fraud, forfeit the broker's commissions. The power of rejecting the purchaser for good cause cannot be taken from the principal, unless he voluntarily parts with it by power of attorney, in which case a still stricter rule of good faith is imposed upon the attorney than upon the broker. No one can prevent him from exercising ordinary business caution in a matter of such importance, by satisfying himself as best he may of the solvency of the vendee. He can require such assurances from his broker, and refrain from selling until the broker, as he is bound to do if called upon, produces proof of the purchaser's ability, and the principal is satisfied to accept him. There is no legal compulsion to make sales on deferred payments, and assume an extra hazard without proper security. He may require a sufficient deposit on the sale to protect him against reasonable loss, including the broker's commission. And finally, the free field is open to have an express understanding with the broker, in which commissions may be made to depend upon the complete performance by the purchaser.

The broker, on the other hand, has nothing to do with the terms of sale, and risks the loss of his commission if he undertakes to vary them without authority. Under the present rule, his only course would be to require an express understanding that commissions should be earned on the signing of a satisfactory contract of sale with a purchaser acceptable to the seller. I venture to say, that in the majority of cases, this would seem reasonable to the owner.

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At all events, we must advise our clients, both brokers and owners, with due regard to the law as it now is, and the tendency will probably be to do a larger percentage of broker's business upon express prior agreements. The vendor will be safer without such agreement, but we would advise our broker clients, and incidentally ourselves, to have the protection of such express contracts, in such form as may meet the particular case and the desires of the parties, and not take the additional hazard of an unexecuted contract from causes which we can neither control nor foresee. Otherwise, unless some statutory rule be provided, the broker must constitute himself, in addition to his already exacting capacity, not only a collection agency to recover indefinitely deferred rewards, and an intelligence bureau to ascertain the elusive financial worth of his customers, but also a guarantee agency to insure against their future insolvency, and a sort of Delphic oracle to utter inspired premonitions of their future whimsical defaults.

The President: At the time of the adjournment yesterday afternoon, the matter pending before the Association was the second bill in the report of the Committee on Laws, entitled "An Act to amend section 27, of article III of the constitution of this State," to provide instead of having bills engrossed that they be printed in clear, bold type. That matter is now before the Association.

Wm. C. Devecmon, of Cumberland: I move the Association recommend to the legislature the adoption of that act, and that the Committee on Laws be instructed to present it to the legislature.

John P. Poe, of Baltimore City: Do you move that it be adopted in the form in which it is printed?

Wm. C. Devecmon: With the same authority to the Committee as was given yesterday in the case of the other bill to make verbal changes.

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John P. Poe: I desire to say a few words in regard to this bill. I wish first to respectfully call the attention of the Committee and the Association to the phraseology of section 27 as it is printed: "Any bill may originate in either house of the general assembly, and be altered, amended or rejected by the other; but any bill so originating in either house during the last ten days of the sessions, unless two-thirds of the members elected thereto shall so determine by yeas and nays."—

As I read it, that seems to be meaningless. Manifestly there is a typographical error there. If I may be pardoned for making the reference—I feel very loath ever to make any reference to typographical errors. They may be alleged to be intentional. While I have the floor in this connection it possibly may occur to the memory of some of my friends, that way back in 1889, it was my duty and my privilege to publish by the authority of the State a book that is known as the code of 1888. That code was submitted to the legislature in March, 1888, was adopted on the 14th of March, 1888, and then, in order that the statutes of that session might be incorporated in the code, the codifier was directed to prepare a reprint of that code and to include in it the statutes which had already been passed, or might thereafter be passed, during that session. Accordingly, in obedience to the directions of that act, the code of 1888, as it is called, was reprinted and was promulgated in January, 1889, embracing the original code as submitted to the general assembly in March, 1888, as altered and amended by the acts of the session of 1888, and copies were required to be filed with the clerk of the Court of Appeals and upon his certificate the code was to take effect, and did, as a matter of fact, take effect, on the 31st day of January, 1889, and that was then the statutory law of the State.

It so happened that some time in October, 1895, I went with my late lamented friend, John E. Hurst, to Cam-

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bridge to participate in a political discussion in favor of the election of that gentleman to the high office of governor, and when we returned to Baltimore I found that a great discovery had been made. There was in one of the local laws of Baltimore City, a typographical error which was said to alter the whole meaning and effect of the law relating to the appointment of supervisors of election of Baltimore City; that by some intentional typographical change the word "veto" had been changed into the word "vote," and that this had been done with the deliberate design of emasculating the law and frustrating the deliberate intention of the general assembly of the State of Maryland. It was a discovery which was made and brought to my attention in 1895, of an error that had occurred way back in 1889, and which, so far as I was concerned, had been sleeping undiscovered and unknown for several years. The result of that discovery, which was made the subject of much forensic indignation, not to say vituperation, on the stump was, that I am now known in Maryland by the delightful soubriquet of "Veto Johnny."

There is some consolation, of course, in reflecting upon that delightful soubriquet that if I go down to history at all with any such prefix, or affix to my name, I shall have good company, for I shall go down with our distinguished fellow citizen, the present Attorney-General of the United States, who will likewise go down into history with me by the name of "Soup-House Charlie."

Now, you may well understand, Mr. President and gentlemen, why I am a little unwilling to call attention to typographical errors to proposed constitutional amendments. I hardly knew whether, when this attack was made, to be more indignant at the attack upon my intelligence or the attack upon my integrity. I did not know whether it was better to be called a knave or a fool; but it is some consolation to be able to remember that when that

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ungenerous criticism was made, and when it was alleged that the codifier way back in 1889 had changed a law in order that seven years afterwards, political use might be made of it, I say it was some consolation to remember that the point was made the subject of judicial investigation and that the Court of Appeals, when the matter was brought before them, said, it was a copyist's typographical error that did not in any way change the sense and meaning of the act. So, therefore, the allegation meant that I had the corrupt purpose to change the law, but that I did not have sense enough to know how to do it. As a part of the interesting history of this little matter, it may, perhaps, be not out of place while I have the floor to say that in 1896, when the law, which we know as the Reform League Law, was presented to the general assembly, the draftsman of that law having discovered this intentional or unintentional typographical change in the code corrected it and the bill was given to the State printer, and the State printer printed the bill and copies of the bill were laid upon the desks of the members and when the members of the senate came to examine that bill, and particularly that section, they found that the State printer in printing that section had made the same typographical error, printing "vote" instead of "veto."

I may say that in printing the code and examining 4,000 pages, a slight error of that description which, when the error was designedly attempted to be corrected, was again fallen into by the printer, was not such a very serious error after all. This is simply by way of digression.

Now, to refer to the matter before the Association, I hope that my friend will allow the words "any bill so originating" to be stricken out and that the words inserted shall be, "No bill shall originate," because that is the language of the constitution which is intended to be repealed.

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Of course, it is intended merely to change the constitutional provision by the last line. The last line is, "until it shall have been actually engrossed for a third reading," and it is proposed to strike out those words and substitute the words found here in the printed form of the section, "until it shall have been printed in clear, bold type for a third reading." It is on that point that I desire to say a few words.

I have taken occasion since this pamphlet was put into my hands to examine the constitutions of all the States of the Union upon this subject, and I found that in Illinois in the constitution of 1870, it is provided, "every bill shall be read at large on three different days in each house, and the bill and amendments thereto shall be printed before the vote is taken on the final passage."

In Missouri, the constitution of 1875 provides, "no bill shall be considered for final passage unless the same has been reported upon by the committee and printed for the use of the members."

The constitution of Nebraska of 1875 is the same as that of Illinois, and of Pennsylvania, 1873, is the same as Illinois, and the constitution adopted in West Virginia in 1872 contains these words: "Provided that in all cases an engrossed bill shall be fully and distinctly read in each house."

These are the only States in whose constitution any provision is made covering the precise point intended to be covered by our constitutional provision and intended now to be altered by the proposed amendment.

Those of you who will go back to the constitution of 1867 will not fail to notice that it was the deliberate intention of the framers of the constitution that no bill should be put upon its final passage until it was actually engrossed. That was the purpose of it. It seems to have been the first constitution in which any distinct provision of that sort was made.

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It is now suggested that this provision in our present constitution is obsolete, out of date, cumbersome, and expensive and it ought to be changed, and it is proposed here to change it in the way suggested, "no bill shall be read a third time, until it shall have been printed in clear, bold type for a third reading." It says, no bill. That, of course, necessarily means that no local bill as well as no general bill shall be passed to its third reading until it shall have been so printed.

The practice is, I think, not to print local bills, and hence this provision, if adopted, will necessarily lead to the printing of all bills, local as well as general.

It is suggested that this amendment will lead to economy and it is said that it is a very simple thing to do and that it is done in Congress. But it must be borne in mind that Congress, the United States Government rather, has ample facilities for prompt printing in the Government printing office. The State of Maryland has no printing plant. The printing of the general assembly is done year by year under contract by the State printer and when you propose to amend an organic law by requiring all acts to be printed, including those that heretofore have not been printed, manifestly the contract price for printing must necessarily be enlarged and enlarged very considerably. Then again, it is questionable, whether there is any necessity for providing that all bills, without regard to their character, shall be printed. Might it not be sufficient to leave the present provision as it stands and add the proposed words as follows so that it will read, "and no bill shall be read a third time until it shall have been actually engrossed, or has been printed in clear, bold type, for a third reading." By this slight change those bills general in their character, to which this amendment is particularly directed, may be caused to be printed and those bills of a local character which are not required to be printed, and the printing of which would involve large cost, could be,

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as now, simply ordered to be actually engrossed, and thus the object of this reform would be accomplished.

I have been told by a man who is an expert on the subject, and who is competent to speak, and who has examined it, that it is very questionable whether this proposed amendment, the object of which and the intent of which undoubtedly commend themselves to our favorable consideration, can be well carried out.

Let us suppose that you have a constitutional provision such as is here proposed, what would be the result? Why the result would be that you could not read any bill a third time—that is, you could not pass any bill, unless it was actually printed. Suppose that it should happen that there is such an immense mass of bills towards the end of the session to make it physically impossible to have them printed. There is no printing plant in Annapolis. The contractor is not going to the expense of putting in a costly printing plant in Annapolis simply under a contract for one term, one year. He does not know whether he is going to get the contract again, or what the price is to be. Suppose the condition above described, and you had this constitutional provision and you could not read the bills for final passage until they had been printed, and they could not possibly be printed in time before the end of the session came, what would become of your proposed legislation? Ought there not to be some flexibility in this so that when any bill is read a second time and ordered to be put upon the third reading, it could be ordered that bill should be actually engrossed or should be printed so that this predicament to which I have adverted should be avoided?

I agree that it is desirable that this reform should be made in some shape and I only suggest the difficulties in the way so the Association may consider whether it may not be well to give some little flexibility to this amendment by providing that there may be some alternative

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within the power of the house or senate, as the case may be, to order the bill to be actually engrossed, or order it to be actually printed, so that bills that are directed to be engrossed may be engrossed and bills directed to be printed may be printed in time to be acted upon.

I do not know whether it is necessary to make any suggestion in reference to the mode of printing, and say they shall be printed in clear, bold type. That, of course, is very proper to be done, but the printing with which we are familiar is very excellent.

I only make this suggestion to the Committee and to the Association, as to whether it would be desirable to have the hard and fast rule that would be absolutely mandatory and that would require every bill, big and little, local and general, to be printed before it could be read the third time.

I suppose the gentlemen of the Committee, who have given so much care to the preparation of this bill, for which we ought to be most thankful, have considered the subject in the light of the various objections made to the present system, and I, with great deference to their consideration and judgment, would venture to suggest whether it might not be well to modify the strict and rigorous terms of this proposed amendment so as to give a little leeway in order to allow the house or senate the power to say whether a bill should be actually engrossed or whether it should be printed.

The framers of the constitution had the deliberate purpose in view when they put in, "actually engrossed," as distinct from being constructively engrossed, and they wanted the bill engrossed in final form so that after all amendments had been adopted it could be passed upon.

I desire to call attention to the provisions in the other States where the language is, "and the bill and all amendments thereto shall be printed." The language is here, no bill shall be read a third time. Perhaps when a bill

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reaches the stage of being put on the third reading, it is a bill as amended; but the language of the other constitutions seems to cover the case of the bill and amendments, because the language is, the bill and all amendments thereto shall be printed, so that, when it is to be read on its third reading, and put on its final passage, it is the bill as originally introduced and as amended during the course of its passage through the respective houses.

I do not wish it to be understood that I am antagonizing or opposing this reform, because I consider it is a reform and it is a reform in the direction of economy. It is to be hoped it will lead to economy, although there is some doubt as to whether the practical results will be as satisfactory as it is now hoped they will be; but the main point to which I wish to call the attention of the Association is to make the respectful suggestion as to whether it would not be better to make it a little broader and leave to the legislature, the two branches, the option or alternative to order in the various cases as they arise whether the bill shall be engrossed or whether it shall be printed, so that no bill can be passed on until it is either actually engrossed or until it is actually printed in clear, bold type.

I move to amend the last line so that it will read ss follows: "Until it shall have been actually engrossed, or printed in clear, bold type for a third reading."

James W. Owens, of Annapolis: In 1901, at the request of Mr. Stevenson Archer Williams, who was then president, I read a paper on "Legislation, Its Errors and Needed Reforms," before this Association at Deer Park. In that paper I made the suggestion in regard to the change of this section of the constitution, and that has been followed up and it comes now before us in its present shape.

The suggestion I made for the language of this section was that no bill should be read a third time until it shall have been actually engrossed, and following it up with

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the very words that my friend has said, "actually or constructively." As an object lesson that you, Mr. President, were interested in, I may refer to the charter of Baltimore City that came down there, about 400 pages of engrossed matter, with which came also fourteen engrossed bills; and as the amendments were made, page by page, four clerks were sitting in the library and they used substitute sheets. If it comes down to a question of actual engrossment, as you say it shall be actually engrossed, when amendments are made it should be provided that substitute sheets can be placed in the position of those upon which the amendment has been written.

Another section of the constitution says that when bills have been passed, they shall be enrolled for the governor's signature and shall be presented by the chief clerks and secretaries of the respective bodies with the great seal of the State. That is an actual enrollment.

What do we find now? In the last session of the legislature we find that every original bill, passed as it was introduced on its third reading, was carried to the governor in its original state as an engrossed and an enrolled bill.

The objection of lack of time at the close of a legislative session that Mr. Poe makes is one concerning which a great many of you gentlemen know. I have known 300 bills to be passed the last day of the session on the third reading.

I think that this last clause should be changed to comply with the suggestion made by Mr. Poe so that no bill shall be read a third time until printed in clear, bold type for a third reading, or actually engrossed for a third reading; and by the words, actually engrossed, it shall be understood that substitute sheets can be used in the way in which I have suggested, where there are amendments, and that the bill may still be called an engrossed bill. If you did not put some such construction as that on it, you would have to put twenty men to work to write out a bill

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on the last day of the session in order to get it on its passage. You all remember the Negotiable Instruments Act and how many pages that was. You know the Corporation Law and how large that was. And there was the City Charter of 400 pages. While the spirit of this amendment is one that everybody in the State of Maryland ought to agree to, I do not think as it stands in the report it is practicable. I have drawn and engrossed more bills than any man in the State of Maryland and I know how long it takes to engross them. It cannot be done in this way. There must be some latitude given.

My distinguished friend has referred to the public printing. The public printing is done now under contract at a very low price. The bids get gradually less. As everyone knows who has been down to the legislature, there are dozens and dozens of special orders going before the committees to be passed for printing an extra number of this or that paper. We should go on in the line of reform and appoint a public printer, pay him a salary, and buy the materials for him and let him employ printers and pay them by the em as is paid in public printing offices now. We need a printing office belonging to the State in the City of Annapolis and we have a splendid place for it in the basement of the State House. It is in the line of economy.

Wm. C. Devecmon: We think Mr. Poe's suggestion to change this language here so as to include both the bill and amendment is a very pertinent and proper one, but as to also allowing the present system of engrossing to still prevail we think it is a pernicious one because it still allows the same expense, uncertainty and confusion which this amendment is designed to prevent. We feel that it is possible that the whole amendment would be frustrated and made of no account if the engrossing is still permitted. I think the Committee are perfectly will-

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ing to accede to the change as to the matter I have suggested.

Joshua W. Miles, of Princess Anne: In your investigation what have you learned as to the practice in the different States?

Wm. C. Devecmon: Mr. Poe has explained that fully. All the States which have a provision on this subject require them to be printed except one, which is our own.

Joshua W. Miles: Using the language contained in this bill?

Wm. C. Devecmon: Practically so, but in one it provides that the bill and amendment shall be printed. The Committee are perfectly willing to accept that change. I would like to say that, as to the difficulties, I have had no such practical experience as perhaps Mr. Poe and many others.

Joshua W. Miles: Only three States in the Union have such a constitutional amendment.

Wm. C. Devecmon: Four.

Joshua W. Miles: What has the Committee found to be the practice in other States?

Wm. C. Devecmon: Our Committee made no further investigation in regard to the practice; but there is a sentiment in this State strongly in favor of it. The Governor's message in regard to the subject was set forth in our report and the sentiment of those members of the bar to whom we spoke was practically unanimous in regard to the change. We thought it was useless to make any further investigation in regard to the matter when it seemed to meet the unanimous approval of every member of the bar to whom we spoke. I, myself, have had no experience in regard to legislation in Annapolis and the difficulties of printing at the end of the session. I cannot speak positively, but it seems to me it is much easier and quicker in the present day to print than to engross. Then

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take the class of men you have down there who are engrossing, many of them can scarcely write; their handwriting is illegible. When you put them down there it takes them a long time to engross in a bold, round hand such as engrossing is interpreted to be. I think they could be printed just as quickly, and certainly as economically.

A. Hunter Boyd, of Cumberland: May I inquire of the Committee what was omitted?

Wm. C. Devecmon: I don't know that anything was omitted; it is simply a change in the language there, I think.

A. Hunter Boyd: In the first part of section 27, there seems to have been intended to be made a change in the present reading of the constitution, which is, that no bill shall originate in either house during the last ten days of the session unless two-thirds of the members elected thereto shall so determine by yeas and nays.

Wm. C. Devecmon: You will see by consulting the report on the third page that the purpose of the Committee was simply to change the last line and no other part.

A. Hunter Boyd: I am afraid the way it is worded might be construed as authorizing any bill to originate within the last ten days. The present reading of the constitution prohibits a bill being offered during the last ten days; a great many might be offered at that time and there might not be time for consideration.

John P. Poe, of Baltimore City: I made the suggestion that was obviously a typographical error and the representative of the chairman of the committee conceded that was so and instead of saying, any bill so originating, should be substituted the words, but no bill shall originate; that is exactly as it is in the present constitution.

Isaac Lobe Straus, of Baltimore City: It seems to me there ought to be immediately proposed an amendment which will obviate the clerical mistake. That is a very

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simple matter. The section as embodied in this report as to the first part ought to be just as the constitution reads.

The President: That is understood.

Isaac Lobe Straus: I want to say a word in regard to what was said by our distinguished brother, Mr. Poe, with reference to the final clause of the bill. As I understand it the chief objection suggested by Mr. Poe is, inasmuch as local bills are not now printed this measure, if adopted, would require the printing of all bills and that would entail such a large expense as to make it doubtful whether this modification of the constitution would work a change in the line of economy.

I, therefore, move an amendment to section 27 as embodied in the proposed act to the effect that there be added to section 27 as it appears in the report the additional words, "except that either house of the general assembly, may, in its discretion, dispense with the printing of any local bill."

That would leave it to the general assembly to estimate the relative expense of either engrossing or printing local bills and deal with the subject as it may deem best.

Oscar Leser, of Baltimore City: I would like to say a few words since, as a member of the Committee on Judicial Administration and Legal Reform, I have given some thought to the subject. In my judgment all these changes suggested, except as to the clerical error, go to the very vitals of the whole subject. The whole object of printing these bills is to produce accuracy and above all publicity, and you want publicity as much in local bills, perhaps a little more, than in general bills.

I remember a case coming up a few years ago in which a bill was called a local bill for Allegany County. It was decided by the Allegany Circuit Court that it was not a local but a general bill, and it was afterwards decided by the Court of Appeals, that it was neither a local nor general bill but a special law. Therefore, it would appear

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that the label put on a bill does not make much difference as to showing what its character really is. It might be called a local bill whether it affected that locality or any other. You cannot tell whether it is a local bill until you see it and examine it. If the bills are printed then there would be an opportunity to see whether it is a good bill or not. It may be such a good local law for some county that some other county would want to copy it. Under the present system local laws seem to be the private property of the man who introduces it and nobody else's business. Therefore, the provision as to printing is very vital and should be applied to all laws, local and general. If you adopt the alternative suggestion of Mr. Poe that bills shall be actually engrossed or printed you do not make any headway. You have a provision that bills shall be actually engrossed which is very often disobeyed. That is one of the points the Governor made when he said he would not approve any bill until it was actually engrossed which almost made a revolution in the legislature.

John P. Poe: Did he stick to it?

Oscar Leser: It struck the legislature as something startling that the Governor was going to obey the constitution.

Another suggestion has been made that business is crowded in the last few days. That is an evil which ought to be eradicated and to which we ought not to accommodate ourselves. If the bills are to be printed and must be printed the members of the legislature will attend to their business early in the session and will not leave everything to be jammed through at the end.

Another suggestion was in regard to the word "clear" and that we might leave that to the printer; but in some cases that might be a misplaced confidence.

So it seems to me except the suggestion that the amendment should be included as well as the bill itself and the other suggestion in regard to a few words in the begin-

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ning of the section, this bill ought to be passed in the form presented.

The President: I understand there is no objection to changing the words in the bill to conform to the actual words of the constitution; that is the first question.

The question was put and on the vote being taken it was decided in the affirmative.

The President: Another amendment there seems to be no difficulty with is one suggested, I think, by Mr. Poe that no bill shall be read a third time, and so forth, so as to include the amendments.

John P. Poe: I did not make that as an amendment, but I called attention to the phraseology of other constitutions where it used the words, bill and amendments. I understood the words, no bill shall be read a third time until it shall have been printed in clear, bold type for a third reading, would carry with it all the amendments up to that stage; I did not make it as an amendment.

Oscar Leser: As far as the Committee is concerned, they would be glad to accept it so it will read, no bill, with all the amendments thereto, shall be read a third time, until they shall have been printed, etc.

Isaac Lobe Straus: I would like to say a word about that. When a bill reaches its third reading, which is the stage mentioned here, it embodies all the amendments. This refers to a bill in its final shape before the last action of the legislature is taken, just before it has been put on its final passage. It would be superfluous to speak of amendments at this stage of the bill, as it is ready for the final action of the general assembly on it.

The President: The question is on the amendment.

The question was put and the vote was decided in the negative and the amendment was accordingly declared not adopted.

The President: The next amendment is that offered by Mr. Straus to add to the bill, "except either house of

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the general assembly may, in its discretion, dispense with the printing of any local bill."

William H. Adkins, of Easton: I do not think anything would be more dangerous than to pass an amendment leaving to the discretion of the legislature the omitting to print or engross a local bill. There would then be no opportunity for members to inform themselves as to the exact character of a bill and it could be called a local bill when it was not a local bill. I think it would be a dangerous amendment.

The President: The question is now on the amendment of Mr. Straus.

The vote was duly taken and the amendment was defeated.

The President: The next amendment is on inserting the words "actually engrossed or," as proposed by Mr. Poe.

The vote was taken and the amendment was defeated.

Wm. S. Bryan, Jr., of Baltimore City: Mr. Poe has referred to the fact that some criticism might be made to the second section of the bill. It says, "there shall be written or printed the words, 'for the constitutional amendment,' or 'against the constitutional amendment.' "

You will remember there were two amendments before the Court of Appeals before the last election in 1905. I think one had language similar to this. It was the suffrage amendment. The other amendment provided in accordance with the terms of the general law that the amendment should be submitted. The Court of Appeals decided by a vote of five to three that language similar to that here used meant the same as that in the other amendment, and that it should be submitted in the manner provided by the general law and the word "written" did not control and that the man could not mark his ballot by writing. Three able and conservative

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members of the court, Judges Boyd, Pearce and Schmucker, dissented from that. The dissenting opinion was written and it would not be proper for any of us to say whether or not the dissenting opinion was better than the opinion of the court. Still there is no reason for submitting an amendment here about which there may be some controversy, because there is no object in doing so. All the judges concurred in holding the provisions of the good roads law to be valid. The words "written or" in the second section of the bill should be stricken out.

The President: I understand that is simply a suggestion and not an amendment.

Wm. S. Bryan, Jr.: I understand that the Committee accepted that amendment.

Wm. C. Devecmon: Yes; we accept the amendment.

The President: The question is on the approval of the bill as recommended by the Committee and amended.

The vote was taken and decided in the affirmative.

Wm. C. Devecmon: I move that the next bill be approved. It is an act amending sections 367 and 375 of article 23, code, to make it the duty of State's attorneys to file bills to restrain usurpation of corporate franchises.

The proposed changes in the present law are simply these: Section 367 is so amended as to apply to non-resident corporations doing business in this State, and proceedings are to be had against non-resident corporations which shall exceed the law, proceedings instituted by the attorney-general to annul their franchises, the same as against domestic corporations.

In section 375 the change is also made there that proceedings shall be had against non-resident corporations as well as against domestic corporations. We have also allowed the State's attorneys for Baltimore City and the several counties to start action on their own motion.

James W. Owens, of Annapolis: I have an amendment to offer and it this, that section 2 be stricken out and

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section 1 be made to read, Be it enacted by the General Assembly of Maryland, That sections 367 and 375 of article 23, of the Code of Public General Laws of Maryland, title, "Corporations," sub-title, "Remedies for Abuse, Misuse or Non-use of Corporate Powers," be and the same are hereby repealed and re-enacted with amendments so as to read as follows:

They are both sections of the same article under the same title, and it simply is making it cumbersome by having the extra title to the second section. My amendment is to let one follow the other in the manner I have indicated.

The President: What is your pleasure on Mr. Owen's amendment.

The amendment was duly adopted.

The President: The question recurs on the approval of the act as recommended by the Committee and amended.

On vote the act as reported by the Committee and amended was approved.

Wm. C. Devecmon: The next bill is an act to amend article 75 by adding a new section, 102-A, providing for notices to parties before actual transmission of any record under suggestion of removal.

I cannot very well explain this. It is a change in the code and I did not anticipate presenting these acts to this body, and consequently, I came here without having previously looked at the code. This act, however, was drafted by Mr. Yellott, and it grew out of a case which he had in which inconvenience and hardship were worked upon him, which he believes could be remedied by this act, and which are not covered by the present code. Just what the change is, I do not know. I know, however, the Committee carefully considered it and that the code was before us at the time, and I, therefore, move that the

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next Committee on Laws be instructed to present that act to the legislature also.

Wm. E. Bonn, of Baltimore City: In reference to this bill I have a word or two to say. I do not know, of course, the reason for this proposed act, but in passing an act like this, and having it inserted in the code, it should not be done without taking into consideration and account the whole body of the law.

In Baltimore City we have a very beneficial rule in reference to removals. There is a removal of a case by the transmission of the original papers with the docket entries, which can be done speedily, and you are able, under a rule of the Supreme Bench, to bring the case up on twenty-four hours' notice, and to have an almost immediate hearing of the case without involving any inconvenience or delay. I am afraid that if this section passed, it might interfere with the local practice.

In addition to that, there is reference here to the inspection of the record. With us that is not required to be made. It may, however, be construed that the original papers and docket entries are the record. Therefore, it may harm us in the city.

I think if this act is recommended, there should be some amendment so that it would not interfere with the local practice we have found beneficial, and I move as an amendment, provided this section shall not apply to Baltimore City.

The President: The question now is on the amendment offered by Mr. Bonn.

The vote was taken and the amendment adopted.

Oscar Leser, of Baltimore City: I move to substitute the words "as soon as" for the word "immediately" in the bill.

The motion was seconded and adopted.

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The President: The question now recurs on the motion to approve the bill as recommended by the Committee and amended.

The vote was taken and the bill approved.

Wm. C. Devecmon: The next matter reported by the Committee is a recommendation that article 2, section 31, of the constitution shall control in all cases and to provide for better indexing, printing and distribution of acts of assembly, and declaring against laws taking effect before June 1st, following their passage, as is provided by the constitution.

There is a resolution that must appeal to all members of the Association. Our constitution provides that a law shall not go into effect until the first of June, unless the act itself provides otherwise. In most States, it is provided for in their constitutions allowing acts which, on their face, state there is immediate necessity for their passage to go into effect at once.

Our constitution has no such provision and consequently it must state in the act that it is to take effect from and after its passage. We did not want to propose too many constitutional changes, so we put this in the form of a resolution calling the attention of the legislature to this section of the constitution.

I recommend that the resolution be adopted.

The President: The question now is on the adoption of the resolution recommended by the Committee.

The question was put and decided in the affirmative.

Wm. C. Devecmon: The next recommendation of the Committee is an act to amend article 23, section 23, of the code, so that a corporation can be formed to carry on any lawful business not prohibited by the laws of the State of Maryland.

Mr. Donaldson, who had given the subject some thought, said that a similar provision exists in many

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States and there is a law in England allowing corporations to be formed for any legitimate purposes.

We have a corporation commission to study the whole subject of corporation law, and whether this should be adopted or not we are not fully agreed upon, but we suggest it to the Association.

This act was drawn by Wm. E. Walsh. It was suggested to Mr. Walsh by some corporation which had to go out of the State to get a charter for the reason that it could not get the desired powers under the general laws of this State, and he thought there was no reason why the State should be put in that position.

Mr. Donaldson thought it was a very wise amendment to the law and said it was the law in England and many States.

I move that section 2 of the reported act be struck out and that the Association approve the act as thus amended.

Motion was seconded.

John Phelps, of Baltimore City: Not having the code here it is difficult to say what would be the effect of the enactment of this section on the rest of the corporation law.

While it is undoubtedly good and while this provision for carrying on any local business is usual in most of the broader corporation laws of other States, it looks, in the way in which this is enacted, to be adding an additional clause to the long list of clauses we have in the code, and seems to be rather a futile attempt to be generous to a class of corporations after a satisfactory number of particular corporations are provided for. In other words, it leaves in the code insurance companies, printing companies and a thousand and one special kinds of corporations which are permitted by special clauses of section 23. It seems to me to be rather an immature attempt to do what it is proposed to do.

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One way this can be accomplished would be by striking out all these special corporations and then substituting what we find in other States, that corporations may be formed in this State for any lawful purpose in which any individual may be engaged.

It seems to me that, while the object is very apparent and meritorious and ultimately will be carried out in some form, yet simply to enact this as one clause and leaving the other special clauses in the code, will not have any particular effect, but rather create difficulty, inconvenience and confusion.

The President: The question now recurs on the motion of the Committee as to the approval of this bill.

The motion was adopted.

Wm. C. Devecmon: The next recommendation of the Committee is an act to amend article 27, of the code of 1904, by adding a new section to be known as 433-A, providing for the trial of accused persons where a crime is committed so near the boundary line of a county as to make it doubtful in which county the offense was committed.

This bill was sent to the Committee by Mr. Steele, State's Attorney for Carroll County, and was drafted to meet a difficulty he found in practice. We had on our Committee two State's attorneys who are familiar with the criminal laws of the State and the bill was referred to them for their careful consideration and they recommended this. The other members on the Committee, but who had no experience in criminal law, united in their recommendation. I move that it be approved by the Association.

Joshua W. Miles, of Princess Anne: I would like to inquire whether or not, in your judgment, the legislation recommended yesterday in regard to the criminal laws of the State did not cover this matter.

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Wm. C. Devecmon: Yes; if that code is ever adopted. That act provided for the appointment of a commission which is to report two years after its appointment and after that its suggestions are to be adopted. It may be many years before that is done. This is to meet existing difficulties.

Eugene O'Dunne, of Baltimore City: I think something on the line of this bill ought to be done, but with all due respect to the learned State's attorneys who drew this bill, I think it is inartistic, incorrect and insufficient.

In the first clause, it provides for the arrest and trial of persons committing felonies or misdemeanors near the boundary lines where the boundary lines are not certain. It provides that after the boundary lines are made certain, on motion of the traverser he can have the case removed to the court that clearly has jurisdiction in the matter.

In the absence of having the constitution before me, I am not quite sure as to this matter, but it seems to me there is a provision in the constitution—and the Attorney-General, who is more versed in that matter than I am, can tell whether or not there is such a provision in the constitution—which requires a person to be tried in the jurisdiction in which the offense is committed. If there is such a provision, such a law as this could not be constitutional, since to try him out of the county would be at variance with such a provision, if it exists. It provides that he shall be arrested, held and tried and sentenced. Suppose the offense is murder, there is no provision for the execution of the sentence in the new jurisdiction created by the present law, providing for the execution of the sentence to be carried out in the county in which the crime is committed. You are confronted with the proposition, for instance, if a crime were committed in Somerset County, you would be undertaking to try him in another county and take him to another place for execution. There ought to be some law covering removed

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cases in order that the sentence may be carried out in the proper place.

It seems to me better not to recommend the adoption of this kind of a law.

Ferdinand Williams, of Cumberland: I think that this proposed legislation is wholly unnecessary. The weight and influence of our Association will be more or less diminished by recommending unnecessary things. We all know that in the trial of criminal cases or any other case all things are more or less uncertain until they are proved. Boundary lines between counties and States are matters just as easy to prove as any other fact. It is wholly unnecessary to make a provision of this kind in the case of uncertain boundary lines. While I do not want to criticise anything done by our Committee, still I do think this particular recommendation ought not to prevail. When the legislature sees we are making so many recommendations, and some of them not of great or immediate necessity, it may affect to a certain extent those things that we really wish to have passed.

Eugene O'Dunne: I move, as a substitute for the motion before the house, that this act be not adopted.

The motion was seconded.

The President: The motion before the house is the substitute of Mr. O'Dunne that this act be not adopted.

The motion was adopted.

Wm. C. Devecmon: The Committee recommend an act to amend article 75, of the code, by adding four new sections to provide for the admission of documents and copies as evidence.

I think it is manifest that this is a very desirable act. It provides an economical, satisfactory and simple plan for getting papers in evidence. I think the bill is plain enough without any explanation and I move it be recommended.

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Wm. E. Bonn, of Baltimore City: The bill as drawn is very broad and comprehensive. I have several objections to it. In the first place it provides that notice can be served on opposite counsel and papers must be inspected by a certain day, and there is no provision for any further time to be given and no discretion left to the court or anybody. It is well known by all of us that many times there are cases of non-resident claimants, when nothing is known about the genuineness of papers which might be altered, and when we cannot readily get in touch with our clients and find out anything about the papers. Therefore, I think that provision ought to be amended.

In addition to that it requires you to admit the genuineness of them. The question of the forgery of papers and signatures, etc., do not come up until the actual trial of the case, and, therefore, by this notice served, you are absolutely bound by a forged paper simply because at the time the notice was served you had not an opportunity to discover the forgery. I disapprove of the bill very much and I think it would work a great hardship if adopted.

Wm. C. Devecmon: I am informed that the bill was drawn from some bill now in force in the District of Columbia.

Walter I. Dawkins, of Baltimore City: I move it be not adopted.

The motion was seconded and the question put and on the vote being taken, it was decided in the affirmative and the Association accordingly refused to adopt the act.

Wm. C. Devecmon: The Committee also recommend an act to amend sections 49 and 50 of article 27, providing for the punishment of persons destroying property maliciously.

Eugene O'Dunne, of Baltimore City: I move that this bill be not approved.

The motion was seconded.

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Joshua W. Miles, of Princess Anne: We should not seek to make too many recommendations to the legislature nor waste our influence on matters of minor importance. It seems to me that such an act as this is carrying the matter to a *reductio ad absurdum.* We should recommend only important legislation, and I think this is beneath our dignity.

The President: The question is on the motion that the bill be not approved.

The motion was adopted.

Wm. C. Devecmon: I think myself there is a great deal of force in what the learned gentleman has just stated. I think this Association ought not, as a matter of course, undertake to recommend all sorts of bills to the legislature. This, however, is the first time that this Association has undertaken to do anything of the sort. The Committee met frequently and the members of the bar throughout the State, many of them at least, took a great deal of interest in the work, wrote and sent forms of bills, etc. Consequently, when bills which we thought were improvements in the law were suggested, we felt in some measure constrained to report them to the Association.

The Committee has gone through the bills carefully and it is to be assumed that it has made some inquiry about the matters which it has recommended.

William C. Devecmon: I move that the next act, being an amendment of article 21, sections 30 and 31 of the code, be approved and be sent to the legislature with the approval of this body.

Walter I. Dawkins, of Baltimore City: How does that change the present law?

Wm. C. Devecmon: We had a general law regarding the imposing of taxes upon a mortgage and a further provision that a mortgage should not be valid unless the mortgagee should make affidavit that he has not required

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the mortgagor to pay the tax. In many of the counties of the State, a tax is no longer imposed upon interest covenanted in mortgages to be paid; but the provision still stands in the law generally in reference to the affidavit and that the mortgage shall recite that the mortgagee has not required the mortgagor to pay the tax. In counties where no taxes are imposed, he nevertheless under the law is required to make that affidavit. At any rate that is on the statute book whether it is carried out or not in every case. There is great doubt and uncertainty as to whether it should be done or not; many members of the bar regard it as necessary to be done, while others do not think that it is now required. This act is to cure that uncertainty.

Charles H. Stanley, of Laurel: The practice has been in Baltimore and everywhere else where there is no tax that the affidavit should be omitted from the mortgage. It seems to me that such legislation as this is entirely unnecessary; because where the tax does exist, then the affidavit is required and where the tax does not exist the affidavit need not be made. I move that the act be not approved.

The motion was seconded.

Edwin H. Brown, Jr., of Centreville: I believe that the law which abolished the tax on the interest covenanted in mortgages to be paid mentioned several of the counties. There were certain specific sections repealed, among them this section requiring this affidavit to the mortgage. I think that will be found the character of the law controlling in the various counties.

John P. Poe, of Baltimore City: It strikes me, with great respect to the Committee, this act is not only unnecessary, but it is positively injurious, and will amount to an expression of opinion by this Association that the affidavit was necessary and without it mortgages were void. We are undertaking to construe the act. I think

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it would be unfortunate to express an opinion in such matters.

The President: The motion before the house is that the act be not approved.

The motion was adopted.

Alfred S. Niles, of Baltimore City: I would like to make a motion that perhaps will be concurred in by the Committee itself. It may meet with the approval of the members.

We have given our approval to several important acts. Every further act approved by this Association, it seems to me, will make the force of the Association's approval just that much weaker. The members have been going out from time to time and it is not as representative a body as it was an hour or two ago. It seems to me probable that the most important matters of the Committee have already been embodied in the recommendations of the Association.

I desire the Committee to understand that the motion I am about to make is more for the purpose of making effective their work than anything else. The motion is, that everything else in the report of this Committee be referred to the incoming Committee on Laws.

That will not interfere with any persons interested presenting to the legislature any of these acts which we would now leave unconsidered, or even with the unofficial sanction of the Committee on Laws; but it will prevent what, with all due respect for ourselves, we must consider is the right and proper thing to do, and it will prevent us from passing upon matters which, even if we should pass upon them and give our approval to them, would rather weaken the force of the approval we have already given to the important matters that we have passed upon.

Wm. E. Bonn, of Baltimore City: This Committee seems to have given a good deal of attention to the matters brought before them and I think it is the duty of

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this Association to stay and consider whatever is brought before us, if it takes a week to do it. If we cannot get a quorum, then let us adjourn until afternoon, and appoint a sergeant-at-arms and send out and get the members in. Courtesy to the Committee and duty to ourselves require that we stay and dispose of whatever is proper for us to act upon.

Moses R. Walter, of Baltimore City: I agree with the last speaker. This Committee has apparently done a great deal of work and the least we can do is to stay and show some respect for its labors. We have no right to ask the Committee to do all that work and when they come here with their recommendations for us to adjourn, for our own pleasure.

Alfred S. Niles: I think that the truest courtesy to this Committee is to do the utmost to make their work effective.

Thomas I. Elliott, of Baltimore City: I therefore move that the further consideration of the report of this Committee be postponed until 3 o'clock this afternoon, and that the meeting adjourn until that time.

The motion was seconded.

The President: The question is on the substitute of Mr. Elliott, that the further consideration of the Committee's report be postponed until 3 o'clock this afternoon.

The motion was adopted and the meeting adjourned.

AFTERNOON SESSION.

JULY 5, 1907.

The President: At the time of the adjournment we were about to consider the eleventh proposition of the Committee on Laws, and there was a motion before the house.

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L. Allison Wilmer, of La Plata: There are two more proposed bills, numbers 11 and 12, which have been recommended, and also four propositions which the Committee have reported for discussion. It seems to me in order to accomplish the best results, inasmuch as this is in the nature of a new departure, although entirely in accordance with the Constitution, and as some of the members of the Association seem to be a little bit tired of the further consideration of these proposed laws, it is well to move, and I do move, as a substitute for the pending motion, that the Association take up the consideration of bills numbers 11 and 12, and that the remaining bills which are reported by the Committee be referred to the incoming Committee on Laws.

The Committee have not positively recommended the adoption of the last four propositions, but they simply recommend them for discussion, and, as some of them may involve a rather long discussion, certainly in regard to numbers 13 and 16, we will accomplish better results by taking up for consideration the two they have positively recommended for adoption and postponing the others.

The motion was seconded.

Wm. C. Devecmon, of Cumberland: I would like to say a word about that. Of course the Committee have reported these matters for the action of the Association, but the President inaugurated the plan by which these matters should be taken up, and, therefore, it is a matter in which he would have a deeper feeling, than the members of the Committee who have simply attempted to carry out his suggestions.

I would like to say, however, that no reason has been advanced for the proposition now before this assembly to postpone any of these matters until the next meeting of the Association. We have all afternoon to discuss these matters and dispose of them. If the members of the

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Association here have something else to do, if there were some other business, or if they had some matter of pleasure that would require their attention, that would be some reason, however small, for the postponement; but I would like to know what reason there is for postponing the consideration of these other matters until the next session of this body. For myself, I can see none. They are matters of importance. The last bill, number 16—I believe it is wholly in reference to the last bill, number 16, that this motion and this fight is made. It is a bill to limit the rights, privileges, etc., of every corporation entitled by its charter to exemption from taxation and is a matter of supreme importance to this State. Why should we postpone the disposition of that matter until the next meeting of this Association? It is not a new matter sprung suddenly on the members of the Association, but has been before the State for fifty years. It has been before the courts. The public are interested in it. The fundamental doctrine of our Association is that we, as members of the State Bar Association and as individual members of the bar, learned in the law, should recommend to the legislature such enactments as we think are for the public benefit.

I had occasion to examine into the question of taxation and I found that question in our constitution was in a very anomalous condition. In the first constitution of the State of Maryland there was a provision that every person in this State ought to contribute in proportion to his worth in real and personal property to the expenses of the government. That provision was in the constitution of this State when the charter was granted to the Baltimore and Ohio Railroad Company. It was there when all subsequent charters were granted by the State which gave exemption from taxation to corporations in this State. But when the court came to pass on the exemptions, overawed by the decision in the Dartmouth

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College case, they ignored that constitutional provision in the State constitution, which was not in other State constitutions and which was not before the Supreme Court of the United States in the Dartmouth College case. That was in our constitution and it was ignored in that case and in several subsequent cases until finally it was decided, as a dictum by our Court of Appeals, that this provision was in our constitution when these charters were acted upon, but inasmuch as the courts had decided that did not limit the legislature, they did not regard it as an open question. If it is an open question, it ought to be open to discussion. I want to say that in the Dartmouth College decision it is impossible to consider it an open question.

Every great political question is always an open question. That decision itself has been modified by the Supreme Court of the United States in several particulars.

The legislature cannot make a contract whereby it surrenders the police powers of the State. Why? The reason of it is that these things are essential to sovereignty and a State cannot surrender its sovereignty. Is not the power to tax equally an inherent quality of sovereignty? I say, therefore, the fundamental question as to whether the State legislature can surrender the right to pass such legislation is still an open question as an act of sovereignty on the part of the State.

I do not wish to tire the Association, and if it does not wish to consider the question it is all right. We know that there is no personal discourtesy to the Committee.

I understand the motion was based on the fact that this particular bill would cause a great deal of discussion and therefore I address myself to that question. I do not wish to be out of order in referring to the matter as I have, but I just want to say that I do think that it is a subject upon which the people of this State need enlightenment, and the

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best way in which they could be informed would be by a discussion of the matter in this body.

L. Allison Wilmer, of La Plata: My friend, Mr. Devecmon, has stated that he understood the reason for the desire to postpone discussion of some of the bills to be an objection to one of them. In answer to that I desire to say that I never had looked at that proposed bill until he commenced to speak. I know, of course, I ought to have done so. I received a copy of these proposed bills, and I suppose everybody else received copies, but I have been so busy ever since that I had no time to read them. I have been reading them up since I have been here. Now, I want to assure my friend, and I know he will believe me, that in making the proposition which I did it had no purpose whatsoever in preventing the discussion of the bill to which he refers, and that it never was suggested to me that this motion should be made. I proposed to make the motion myself and spoke to some of the members who thought it was a good thing to do. I never for a moment thought of making the motion, and nobody proposed to me to make the motion, in order to cut off the discussion in regard to the matter.

Alexander H. Robertson, of Baltimore City: The motion offered by Mr. Wilmer was that we should consider the bills approved by the Committee, but postpone the consideration of all those which are simply brought before the Association for discussion.

I heartily hope that motion will prevail. I do not think the mere fact of discussing a question is of much advantage. It is the action of the Association which carries weight. As far as the discussion is concerned I feel very much in the position of Judge Grason, who was asked by a certain gentleman if he would like to hear Henry Archer on one side and Mr. Fernandis on the other. He said, when Henry Archer is arguing before me I think that he is right and when Mr. Fernandis is arguing before me I

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think he is right, but if Henry Archer should be on one side and Mr. Fernandis on the other, I be d— if I would know anything about it at all.

Alfred S. Niles, of Baltimore City: The substitute offered by Mr. Wilmer is perfectly agreeable to me. Let it be voted on to see whether or not it meets the wishes of the Association.

The question was put and the substitute was adopted.

The President: Recommendations Nos. 11 and 12 as proposed by the Committee are now before the Association.

Charles H. Stanley, of Laurel: I move that bill No. 11 be adopted.

The motion was seconded.

Wm. C. Devecmon: Section 2 ought to be stricken out; I make that motion.

The motion was seconded and adopted.

The President: The bill as amended is now before the house.

John Phelps, of Baltimore City: I dislike very much to be put in the attitude of an objector, but this bill relating to joint tenancy has special reference to bank deposits, and it seems to me it would be an unfortunate change in the law. I think the cases in Maryland are perfectly clear on this subject, as far as I recall them. The Court of Appeals have left the question of whether a joint tenancy in a bank account is an actual joint tenancy, or an account in trust, an open question.

I do not think you can get the law in a much better state than that. You are here trying to lay down a hard and fast rule, which I think would be a very bad thing to do. You are making it so that whenever an account is in a joint name, it is an actual joint ownership and the right of survivorship applies. Unless the contrary appears, is a saving clause; but, in the way in which these matters are done, I do not think that will amount to much. As we

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all perfectly well know, nearly all bank accounts of this sort are made by the stamp of the clerk in the bank on the book. People, not being familiar with the rule of law, will take it just as it is stamped on the book. No such contrary intention would appear in ninety-nine cases out of a hundred.

It seems to me that any such law as this, if adopted, would be doing away, in many cases, with the wish and intention of the parties. In many cases an aged person finding it difficult to go to bank, and attend to his own affairs, wishes to put the account in the name of an agent, or someone more active than himself, in order that he may be able to make withdrawals. Under the Maryland cases that would constitute a trust or agency, and the right of survivorship would not go to the agent in spite of what is on the stamp.

In default of an actual expression of intention, stamped on the book, which, I think, will not be made in ninety-nine cases out of a hundred, the actual intention of the parties will be defeated and, instead of it being a mere financial arrangement between the parties, it will be a joint ownership and a survivorship where no such thing was intended by the real owner of the money.

I think our court has established the law on a sound basis, and I do not think that it will be improved by the adoption of any such measure as this.

Harry E. Mann, of Baltimore City: I am heartily in favor of the adoption of this provision. I am counsel for one of the savings banks of the city and I have had some experience in this matter. I know that uncertainty in reference to these accounts entails an immense amount of expense on people who are not able to bear that expense.

We have again and again had accounts placed in the names of two or more people and, although the Court of Appeals has gone very far, I do not think they have really decided the question, except in the case of husband and

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wife. I have the last decision, where the opinion was written by Judge McSherry, but I think his decision in that case applied only to where deposits were made in the name of husband and wife. Judge McSherry decided that the deposit would be an estate by entirety, similar to an estate by entirety in real estate. In consequence of the unsettled condition of the law in regard to joint accounts, it makes it necessary for savings banks to file bills of interpleader, which entails an enormous expense. Frequently the cost of filing the bill amounts to as much. if not more, than the deposits.

I think it is a move in the right direction to have this matter settled and made positive by statute. It will be a help to those people who now have to suffer on account of the condition in which the law now is.

Charles Herzog, of Baltimore City: I cannot agree with Mr. Phelps that the Court of Appeals has established any such rule as he has referred to. As I understand it, the law in every case depends on its own facts and circumstances. There are cases in which it was held, as in the one referred to by Mr. Mann where the deposit was made by husband and wife, that it is in the nature of an estate by entirety and goes to the survivor. Yet in a number of other cases they have held that a deposit made by one person in that form depends altogether on the intention of the owner of the money. In most of the cases, as I recall, the money finally went to the representatives of the owner of the money.

There have been various schemes devised by banks under the advice of counsel and even the one where the deposit was made in the very words, joint tenancy, it was held by the Court of Appeals not to be joint tenancy, but went to the person who was the owner of the money.

Mr. Mann has adverted to one circumstance, the bill of interpleader; that is often applied in order to determine to whom the money belongs, and it entails great expense.

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In addition to that, it is often required to take out letters of administration in order to determine this question. Where money is now deposited in this form, the banks will refuse to pay it for fear they may be called on again to pay it over again to another individual. As a consequence, letters are necessary to be taken out on the estate of the deceased, to determine in that way to whom the money belongs.

My experience in that respect is that, in nearly every case that has come under my observation, it was the true intent that the money deposited should belong to the surviving depositor and for that reason it was deposited in that form.

I have been often asked by clients, "How shall we put this money into the savings bank so it will go to the survivor of us?" and I have never been able to tell them because the decisions of the Court of Appeals have been really confusing to me. When they decided that the very words, "joint tenancy," did not carry it to the survivor, I did not know what words to employ. Finally the Court made a decision in the case to which Mr. Phelps refers, or one prior to that, that if the word "trust," or something of that character, be used (and in that case I believe that some words of that kind were employed) it would go to the survivor. We find the words in the savings bank book are now to A. and B. and survivor of them. If I recollect rightly, in a number of cases, those words were held not to be sufficient to carry the money to the survivor.

Under those circumstances, I agree with Mr. Mann it would be eminently proper that there should be some legislation on the subject to decide how the money should pass after the death of the individual; moreover, if we pass a law, the community is presumed to know it. It is not only passed for the benefit of lawyers but banks will be informed. We can then point to the statute and the people can be advised and know what the law is and as a

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consequence there will be no further difficulty in reference to the disposition of these deposits on the death of either party. I am, therefore, heartily in favor of the adoption of this act.

Richard Bernard, of Baltimore City: I move as an amendment to the bill to substitute for the words, "with any banking, safe deposit or trust company," these words, "with any firm, person or corporation."

The motion was seconded and the amendment was adopted.

The President: The question now recurs on the adoption of the proposed act as amended.

The vote was taken and the bill adopted.

The President: The next act is number 12, an act to provide for making the State a party to any suit at law or in equity, in which it may have an interest.

Wm. C. Devecmon: I move that be approved.

L. Allison Wilmer: I second the motion.

The question was put and the bill was approved.

Charles Herzog, of Baltimore City: I am rather a slow-going fellow and for that reason when article 5 was taken up for discussion and passed I did not observe that it was a subject upon which I desired to say something. If you permit me I will move to reconsider that vote in order to make a proposition.

I want to say a few preliminary words in order to introduce my subject so that the Association may understand my purpose.

Referring to the third section of the bill it was my purpose to suggest that in this connection the printing and binding of the laws be made in three parts, part 1 to contain all the public general laws, part 2 the public local laws and part 3 the special acts. They may be bound in one or two volumes. If it is confined to one volume, put the public general laws in the first part of the volume, the public local laws in the middle and the special acts in the

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last, so that we may turn conveniently to any special part we may desire. In addition to that they might be put in the form of our present code, or alphabetically, the public general laws being designated beginning with the letter A, and the local laws put in according to the counties in their order as now printed in the code.

Edwin H. Brownley, of Baltimore City: I second the motion.

The motion to reconsider was defeated.

Wm. E. Bonn, of Baltimore City: I want to call attention to the sixth proposed law in reference to corporations which reads, "for conducting or carrying on in this State and elsewhere any lawful business not prohibited by the State of Maryland, where the principal office and place of business of the corporation are located in this State."

It is suggested that that law in that form is clearly unconstitutional because our constitution expressly provides in reference to banks and some other corporations that they cannot be incorporated under the general laws but by a special act. If it is unconstitutional it will not accomplish its object and would put the Association in a very bad light. I would move to reconsider the vote but I voted against the bill.

L. Allison Wilmer, of La Plata: I move to reconsider the vote by which number 6 was adopted.

The motion was seconded and carried.

The President: The matter is now before the Association.

W. Burns Trundle, of Baltimore City: I move that the act number 6 be not approved by the Association.

The motion was seconded and adopted,

Wm. C. Devecmon: There are several other matters which this Committee recommended outside of the ones specially referred to. Whether the motion which has been made to postpone the remaining recommendations of the Committee will cover these or not I do not know,

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but I will call them to the attention of the Association for such action as the members may deem necessary.

The Committee recommend the change in regard to the Orphans' Court and that a committee be appointed to draft and submit to this Association certain bills in reference to our probate system.

James U. Dennis: I move the recommendations in the report of the Committee on Judicial Administration and Legal Reform, touching the probate system in this State, be referred to the incoming Committee on Laws with special direction to it to treat the matter in their next report in the way indicated by the report of the present Committee.

The motion was seconded and adopted.

Wm. C. Devecmon: There are two other matters to which I desire to call the attention of the Association. One is the bill which was read here yesterday as a supplemental report from the Committee, and this resolution which is also recommended.

"*Resolved* by the Maryland State Bar Association, That the representatives from this State in Congress and in the Senate of the United States be and they are hereby requested to introduce and advocate the passage of an amendment to the existing Federal statutes so as to permit an appeal to the Federal courts in cases where State statutes are held invalid by the State courts as being contrary to the provisions of the Federal Constitution."

I move the adoption of that resolution.

The motion was seconded.

John P. Poe, of Baltimore City: Do you want to make some explanation of that? It is rather a grave question to be disposed of in an off-hand way. Whenever a State court decides a State law to be unconstitutional, that ends it. Now it is proposed to allow an appeal to the Supreme

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Court of the United States which shall have an opportunity to reverse the State Court of Appeals. Is not that rather a grave and serious departure?

Wm. C. Devecmon: Simply a change of the Federal statute. I think our present system is anomalous in that the State cannot and individuals can appeal. It is assumed that the State courts always will uphold the State statutes. But they do not always do so and I do not see why the State should not have the right to appeal as well as an individual. Equal rights for all, that is all we ask.

Wm. E. Bonn, of Baltimore City: It only involves one thing and asks that Congress shall pass a law making it possible for the Supreme Court of the United States to pass finally on all questions involving the Federal Constitution and that our Court of Appeals shall not make the final decision on Federal questions. I think it is all right.

The vote was taken and the motion defeated.

Wm. C. Devecmon: There is one other matter of importance to which I desire to call the attention of the Association.

Judge Henderson, when president of the Association, read a very able paper in regard to special acts and their passage by the legislature. He reviewed the history of such legislation in this State and showed the evils that are now existing in regard to the number of special acts passed at every session of the general assembly. A year or two after that Mr. Leser prepared a most elaborate paper on the same subject reviewing, not only the statutes of this State, but compiling statistics as to the statutes in all other States and showing the extraordinary percentage of statutory law that is local in its nature, and the amount of time taken up in considering such legislation. Certain recommendations were made by Judge Henderson which were followed by Mr. Leser in his paper, but no action has

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ever been taken by the Association in regard to their recommendations.

Our present Committee have considered the subject, but they found so many matters to be considered, and it took up so much time, that the Committee could not thoroughly digest all the subjects before them. They, however, recommend in the report that a special committee be appointed to consider that particular subject because the Committee on Laws has so many things brought to its attention that it would require more time and more labor than ought to be imposed on that one committee.

I now move that a special committee of five members be appointed to draft an appropriate constitutional amendment restricting the limits of local and special legislation and advocate the passage of such an amendment in accordance with the report before us.

Motion was seconded.

James W. Owens, of Annapolis: I would like to know the scope of the motion. I recognize the fact that local legislation is one of the greatest evils in our legislature. Each individual thinks he has to pass some bill so that when he goes home he can say, on the floor of the house I passed thus and so.

What I want to know is whether it puts in the hands of certain officials of a county increased power subject to the restraining order of the court. I am thoroughly in sympathy with any measure that will minimize the number of laws passed for local purposes, but I simply rise to ask for an explanation.

Wm. C. Devecmon: I think the motion explains itself. It is simply that a committee be appointed to draft an amendment to the constitution on the subject without giving any specific directions to the committee.

Oscar Leser, of Baltimore City: I think that I can give an answer to Mr. Owens' question. The special committee which considered this matter in 1904 made

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recommendations along the very lines suggested by Mr. Owens and it is presumed the new committee would act on the same line.

The question was put and the motion adopted.

John P. Poe, of Baltimore City: I would like to ask the Committee whether they understand that under the authority supposed to be conferred on the Committee to correct clerical errors in these bills, they would have the authority to make a change in the title of an act to conform to the requirement that all bills should be made to apply to some existing article in the code?

The President: I think the Committee will have authority to put them in legal form, but not to change the substance of the bills.

Charles H. Stanley, of Laurel: I desire to submit the report from the Committee on Grievances.

REPORT OF COMMITTEE ON GRIEVANCES.

The Committee on Grievances begs to report that no matters of grievances affecting the membership of this Association or the interests of the legal profession in this State have been brought to the attention of this Committee, but upon its own behalf it begs to submit some suggested legislation for the good of our profession.

We recommend the passage by the next assembly of the two following bills:

(1) An act to repeal and re-enact with amendments section 18 of article 10 of the Code of Public General Laws, title, "Attorneys at Law and Attorneys in Fact."

The object of the proposed legislation is to prevent persons, not members of the bar, from practicing the profession of attorney at law and receiving fees for legal services.

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(2) An act to repeal section 16 of article 10 of the Code of Public General Laws, title, "Attorneys at Law and Attorneys in Fact," and forbid registers of wills or their deputies and clerks of courts and their deputies preparing papers or performing any business before their respective courts, so long as they hold office.

Copies of the proposed bills are submitted herewith.

DANIEL R. RANDALL, *Chairman.*

A Bill entitled, An Act to repeal and re-enact with amendments section 18 of article 10 of the Code of Public General Laws, title, "Attorneys at Law and Attorneys in Fact."

SECTION 1. Be it enacted by the general assembly of Maryland, That section 18 of article 10 of the Code of Public General Laws, title, "Attorneys at Law and Attorneys in Fact," be, and the same is hereby repealed and re-enacted, so as to read as follows:

SECTION 18. It shall not be lawful for any person, who has not been admitted to the bar, in accordance with the provisions of this article, to practice the profession of an attorney at law, to exact, demand, take, accept or receive from any person whatsoever, any fee, gratuity, gift or reward for any legal advice or service, or to draw for any person for pay or reward, directly or indirectly given or to be given, any will, testamentary paper, codicil, deed or mortgage of real or leasehold property, contract or agreement of sale therefor, articles of partnership or incorporation, chattel mortgage or bill of sale, or any paper to be filed in any legal proceedings in any of the courts of this State, or any paper required by law to be recorded. Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not more than one hundred dollars ($100.00) nor less than ten dollars ($10.00), and in default of the payment of said fine shall be confined in jail for not more than thirty (30) days.

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A Bill entitled, An Act to repeal and re-enact with amendments section 16 of article 10 of the Code of Public General Laws, title, "Attorneys at Law and Attorneys in Fact."

SECTION 1. Be it enacted by the general assembly of Maryland, That section 16 of article 10 of the Code of Public General Laws, title, "Attorneys at Law and Attorneys in Fact," be, and the same is hereby repealed and re-enacted, so as to read as follows:

SECTION 16. No register of wills, deputy or clerk of any register of wills of this State shall practice as an attorney at law in any of the courts of this State of which he is an officer, or to which he may be attached as a deputy or assistant officer, and no register of wills, deputy or clerk of any register of wills shall prepare for any other person, while holding such office or position, any will, petition to the Orphans' Court, report of sale of an executor or administrator, or any other legal paper to be filed or recorded in the office of any register of wills; and no clerk of any court, assistant or clerk employed in the office of any clerk of the court shall practice as an attorney at law in any of the courts of this State of which he is an officer, or to which he may be attached as a deputy or assistant clerk; and no clerk of the court, deputy or assistant clerk of any clerk of the court shall prepare for any other person any deed, mortgage, chattel mortgage, articles of incorporation, confessed judgment, or any other legal paper to be filed or recorded in the office of the clerk of any court in this State. Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be liable to a fine of not more than one hundred dollars ($100.00), and not less than ten dollars ($10.00), and in default of the payment of said fine shall be confined in jail for not more than thirty days.

Charles H. Stanley: I felt bound in the absence of the Chairman and other members of the Committee that I

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should submit to the Association their recommendations, but I now move that the matters suggested in their report be referred to the Committee on Laws, without recommendation.

The motion was adopted.

The President: The discussion of the report of the Committee on the Torrens Land System is now in order. (See page 126 for the report.)

W. Burns Trundle, of Baltimore City: As a member of that Committee I want to say a few words in regard to the Torrens matter.

The question submitted to your Committee as to the advisability of adopting the Torrens Land System in Maryland is an important and interesting one, and to which your Committee has given considerable thought. The advantages of such a system, whereby the holder of a certificate of good title, would be able to transfer promptly, a title good against all the world, are obvious; but its feasibility in this State, bearing in mind familiar constitutional guarantees and limitations, is a very different question.

It was suggested that the system, if adopted, be at first confined to Baltimore City only. The first inquiry would be whether there is any legal machinery in Baltimore City adapted to carrying out the Torrens Land System. It is evident that the initial registration of title under the Torrens Land System, or any system analogous to it, involves, first of all, a judicial determination based on facts properly ascertained. It is conceded on all hands that the initial step would involve the investigation of facts and their ascertainment by a court of competent jurisdiction, the ascertainment of the facts to be established, the facts of a good title of the claimant. As such an investigation is equitable in its nature, none of the common law courts of the city would have jurisdiction, nor could it, under our constitution, be conferred upon

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them. There are two equity courts in Baltimore City, but it is very doubtful whether the legislature would have the power to confer upon them, or either of them, the powers of a Court of Land Registration, with the authority to issue certificates of title good against all the world. Such jurisdiction is quite novel, and unknown to the Court of Chancery of England, prior to the revolution, and unknown to our equity courts since.

In Massachusetts they have a general court where the law is in force, they have a general court which grants certificates and they have branches in certain counties in Massachusetts. That would not be practical here and, in order to create such a tribunal, with the necessary powers, a constitutional amendment would be necessary. Unless the benefits to be derived from its adoption would far outweigh the advantages of the present recording system, favorable action on such an amendment would be doubtful.

Then the adoption of such a system includes or carries with it an indemnity fund, to protect the party guaranteed in case his title under this certificate should in fact prove defective, to his loss and injury. It undertakes to guarantee the title as being good against all the world; when it turns out it might not be good against all the world. If the State of Maryland is to guarantee titles in Baltimore City it would be a proposition which would be very difficult to get through the legislature. Whether the State of Maryland could legally do that is a grave question, because the guaranteeing of titles is not a governmental function.

The method whereby such an indemnity fund is to be raised is to charge a certain percentage of the cost of the certificate, in addition thereto, the accumulations of which would make the indemnity fund. To carry it out on this line, either the State of Maryland must guarantee the registered titles in the City of Baltimore, which, as I have

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said, it would be reluctant to do, or else the extra fees charged for registration of titles in the city must be set apart as a special guarantee fund for insuring those titles. Obviously much time must be lapsed before that special fund, so accumulated, would be sufficient to afford any protection, so that the titles first guaranteed would in fact have no indemnity fund behind them.

These are some of the difficulties, but the most serious difficulty which presented itself to the minds of your Committee, was the matter of "due process of law" guaranteed by both State and Federal constitutions.

Suppose a resident of Maryland claiming to be the owner of land has gone abroad two years or more and his next door neighbor wants to establish his title to the land in question. Under the Torrens Land System the party is reached by order of publication, and when the citizen of Maryland comes back in the course of two or three years and finds his title gone by decree of the court, and then brings ejectment suit to recover that land, the question is, Has he been deprived of it by due process of law? We think that very doubtful that a citizen and resident of this State, temporarily absent, but with the intention of returning, could, without actual notice by service of process, by mere publication in a newspaper, be deprived of his property by the edict of any tribunal. It seemed to us to be repugnant both to first principles and to the State and Federal constitutions. "Due process of law" requires that, before the citizen shall be deprived of his rights in land, he shall have notice of the adverse claim and the opportunity to be heard. This is elementary. To say the proceeding is *in rem* and therefore valid, simply begs the question. It remains to be proved that it is *in rem*. It is well settled that a proceeding to quiet title is *in personam* and is not binding on a non-resident notified by publication only.

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Yet take the case of a non-resident under the Torrens system. He is precluded by order of publication and of course he knows nothing about it, and after his title is made good against all the world he might come back and try to assert his rights. That is the question in the case of Hart *vs.* Sanson, 110 U. S. 151. The subject was very fully discussed in that case and very fully considered. It was held that decree, founded upon a constructive notice by publication, decreeing the cancellation of certain deeds and the removal of a cloud from the title of the plaintiff, could not be set up against the defendant thus notified, suing as plaintiff in an action brought by him for the recovery of the lands, in the Circuit Court of the United States. The case arose in this way: Suit was brought by the heirs of one League, a resident of the State of Texas, in the State court against certain defendants, including one Hart, a citizen of the State of Louisiana, to quiet the title to certain land in the State of Texas. Hart was notified by publication only, which he never saw. The decree was for the plaintiffs and after a quietus had been put on Hart, supposedly so, he brought suit in ejectment in the Circuit Court of the United States for the Northern District of Texas to recover the land. The decree of the State court was set up as a bar and this defense was sustained in the lower court. They demurred to the plea and the lower court overruled the demurrer, but the Supreme Court of the United States decided that there could be no bar except by actual service. I have here the language of the court, which I will read, which will explain the matter better than I can put it. The court says:

"Generally, if not universally, equity jurisdiction is exercised *in personam* and not *in rem,* and depends upon the control of the court over the parties by reason of their presence or residence, and not upon the place where the land lies in regard to which relief is sought. Upon a bill

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for the removal of a cloud upon title, as upon a bill for specific performance of an agreement to convey, the decree, unless otherwise expressly provided by statute, is clearly not a judgment *in rem,* establishing a title to land, but operates *in personam* only, by restraining the defendant from asserting his claim, and directing him to deliver up his deed to be cancelled, or to execute a release to the plaintiff.

"Such a decree, being *in personam* merely, can only be supported against a person who is not a citizen or resident of the State in which it is rendered, by actual service upon him, within its jurisdiction; and constructive notice by publication in a newspaper is not sufficient. The courts of the State might perhaps feel bound to give effect to the service, as directed by its statutes. But no court deriving its authority from another government, will recognize a merely constructive service as bringing the person within the jurisdiction of the court. The judgment would be allowed no force in the courts of another State; and it is of no greater force as against a citizen of another State, in a court of the United States, though held within the State in which the judgment was rendered."

This decision was relied on by our own Court of Appeals in Worthington *vs.* Lee, 61 Md. 542, opinion by the late Judge Alvey.

"Due process of law" is that procedure or process, including notice of a fair opportunity to be heard, which is owing to the citizen, and which is a condition precedent to his being deprived of his property and land.

Take the case in our own State of a man who dies intestate and unmarried, without issue, and the land claimed by his heirs. They come into court under the Torrens Land System and ask for a declaration. They prove that the man has left no heirs and he is the last of his race, and they get a decree of court establishing in them the right to the land, which is good as against all

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the world. Then come in the heirs, the cases of Ex-parte Turner, who were absent from the United States and they bring their ejectment suit to obtain the land. Would a decree under the Torrens Land System bar them? These are some of the things presented to us.

There is also another theory in regard to this matter which is that you can borrow money as on a bank stock. I take it to a banker and he would ask his counsel, Is this all right? The reply would be: If the title is good it is all right, but under certain circumstances it would not be valid. He would say, I don't want that sort of a thing and he would not have it.

In the great State of New York they have refused to adopt the Torrens System. In Pennsylvania they have refused to adopt it. The first time the bill was introduced it failed by a small majority; the second time the majority was very much greater against it.

It is true that it is in force in some of the Western States. The condition of land titles in the West no doubt are practically different from what they are in the State of Maryland.

We simply recommend that the Committee be continued, and if we find that we can draft a bill which is practical and which we believe to be constitutional, then we will present such a measure to the Association for its action.

Charles Herzog, of Baltimore City: There are a number of very interesting questions involved in this matter. I would like to ask whether the literature you have referred to throws any light on the questions. Is it necessary to search the title from the patent and lay it before this tribunal in order for it to determine after due investigation whether the title is good and sufficient in the party who makes the claim?

M. R. Walter, of Baltimore City: The statutes usually provide that after the application is made to the court for registration the papers are to be referred to an examiner

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appointed by the court who makes a complete examination of the title and reports to the court the names of all persons he ascertains have any interest in the land. The statutes also usually provide that every adjoining owner who is interested must be notified in order that there may be no decision affecting his rights without notice.

The question of continuing the Committee on the Torrens Land System was decided in the affirmative.

The President: I appoint the following Committee on Nominations for the ensuing year:

CIRCUIT.

Fourth,	CLAYTON PURNELL, *Chairman,* Frostburg.
First,	HENRY J. WATERS, Princess Anne.
Second,	J. H. COVINGTON, Easton.
Third,	ELMER J. COOK, Towson.
Fifth,	JOHN G. ROGERS, Ellicott City.
Sixth,	CHARLES W. PRETTYMAN, Rockville.
Seventh,	JOHN B. GRAY, Prince Frederick.
Eighth,	JOHN PHELPS, 1109 Calvert Bldg., Baltimore.
Eighth,	OSCAR LESER, 17 W. Preston St., Baltimore.

Oscar Leser, of Baltimore City: I have a resolution to offer.

"*Resolved,* That the Maryland State Bar Association recommend the passage of an act by the next general assembly providing for the compilation of a complete index of all acts of assembly and resolutions passed up to and including the session of 1908."

I think all of us have found the need of such a reference. The only way now is to search through the yearly index and very often we cannot find it then because it is poorly indexed in many instances.

The city of Baltimore has provided for a complete index of all ordinances and has found it well worth the

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expense of doing, and it has seemed to a number of lawyers, to whom I have spoken, that something of the same sort in reference to the acts of the assembly would be very desirable.

The resolution was seconded and adopted.

John Phelps, of Baltimore City: I think it is the sense of this Association that the work of the Committee on Laws in getting into shape in this satisfactory form the bills which they propose to recommend, meets with approval and I would like to submit a resolution to the effect that it be incorporated as part of the duty of the Committee on Laws:

"*Resolved,* That the Committee on Laws shall cause to be printed in convenient form all proposed laws which they deem proper to report to this Association for its consideration, and that a copy of such laws be sent to each member of the Association at least thirty days before the date appointed for the annual meeting."

The resolution was seconded and adopted.

The President: The next in order is the election of officers for the ensuing year. The report of the Nominating Committee has been laid before the Association. (See page 144.)

James W. Owens, of Annapolis: It would afford me very great pleasure to vote for the President, Secretary and Treasurer; but I want to state, on reading the names of the nominees, that there are a number of vice-presidents, five of whom are not present today and who are not in the habit of being present, and there is one member of the Executive Council present.

I want to call the attention of the Association to those who do not attend and who are placed in official positions. I think this Association wants men in its official positions who will come here and show an interest in the Associa-

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tion. The Committee on Nominations may name a lot of men who don't come here, but I do not think it ought to be done. When men perform their duties like Mr. Dennis, Mr. Turner and others, and take an interest in the Association, I want to support them first, last and all the time; but I want to protest against the nomination of men for office who never take an interest in these meetings.

The President: The Chair agrees with you emphatically; have you any nominations to make?

James W. Owens: None at all; I only want to call this matter to the attention of the Association so that next year when the Committee on Nominations bring in their report for the officials of this Association they may be such men who are active in the work and are willing to perform their duties to the best of their ability. That ability may be poor but at the same time it is the best they have and they are working for the best interest of the Association and the State. I want to enter my protest here against nominating men for positions in this Association who never take any interest in it.

George A. Pearre, of Cumberland: I want to state by way of comment on the remark of our friend in reference to the fact that some of those nominated for positions in the Association are not present, that although they are not present they still contribute to the expenses of the banquets which we all enjoy.

James W. Owens: We have all paid our five dollars.

Charles M. Armstrong, of Baltimore City: The Chairman of the Nominating Committee is present but too modest to vindicate himself. I had the honor to be a member of that Committee and I want to say for the Chairman and other members of the Committee that we made special inquiry in reference to the habits of the various gentlemen in regard to the attendance on the meetings of the Association and we were under the impression that those nominated were gentlemen who

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were interested in the Association and were diligent in the discharge of their duties.

John B. Gray, of Prince Frederick: I move that the Secretary cast the ballot of this Association for the officers named by the Nominating Committee.

The motion was seconded.

The President: The motion is that the Secretary cast the ballot of the Association for the officers named by the Nominating Committee.

The motion was decided in the affirmative and the Secretary accordingly cast the ballot of the Association for the gentlemen nominated for the various offices by the Nominating Committee and they were accordingly declared the duly elected officers of the Association for the ensuing year for the respective offices for which they were named.

The President: I name the following delegates to the next meeting of the American Bar Association: David G. McIntosh, of Towson; Joshua W. Miles, of Princess Anne; J. H. C. Legg, of Centreville.

Alfred S. Niles, of Baltimore City: Although the hour is a little late I am willing to stay here and listen to the report of the Committee on Legal Biography and I think there are probably others also willing to do so. I would like to have that report read.

The President: The motion is that the report of the Committee on Legal Biography containing sketches of the deceased members be now read.

The motion was adopted and the report was read in full, after which, on motion duly seconded, the Association adjourned *sine die.*

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Officers and Committees

FOR 1907-1908.

OFFICERS.

PRESIDENT:

L. ALLISON WILMER,
La Plata.

VICE-PRESIDENTS:

First Judicial Circuit,	ROBLEY D. JONES, *Snow Hill.*
Second Judicial Circuit,	EDWIN H. BROWN, Jr., *Centreville.*
Third Judicial Circuit,	N. CHARLES BURKE, *Towson.*
Fourth Judicial Circuit,	M. L. KEEDY, *Hagerstown.*
Fifth Judicial Circuit,	F. NEAL PARKE, *Westminster.*
Sixth Judicial Circuit,	EDWARD C. PETER, *Rockville.*
Seventh Judicial Circuit,	J. BRISCOE BUNTING, *Prince Frederick.*
Eighth Judicial Circuit,	WILLIAM S. BRYAN, Jr., *Baltimore.*
Eighth Judicial Circuit,	WALTER I. DAWKINS, *Baltimore.*

SECRETARY:

JAMES U. DENNIS,
406 *Equitable Building, Baltimore.*

TREASURER:

FRANK G. TURNER,
3 *East Lexington Street, Baltimore.*

EXECUTIVE COUNCIL:

WILLIAM W. BECK,	*Chestertown.*
ARTHUR D. WILLARD,	*Frederick.*
JOSEPH C. FRANCE,	*Baltimore.*
EDWIN G. BAETJER,	*Baltimore.*

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STANDING COMMITTEES.

COMMITTEE ON ADMISSIONS.

CIRCUIT.

8 FREDERICK T. DORTON, *Chairman*.....Baltimore.
1 GORDON TULL.....Princess Anne.
2 ALBERT G. TOWERS.....Denton.
3 JOHN S. YOUNG.....Bel Air.
4 LLOYD LOWNDES, JR.....Cumberland.
5 DANIEL M. MURRAY.....Ellicott City.
6 JOHN S. NEWMAN.....Frederick City.
7 JAMES C. ROGERS.....Hyattsville.
8 J. HENRY BAKER.....Baltimore.

COMMITTEE ON LAWS.

CIRCUIT.

8 CONWAY W. SAMS, *Chairman*.....Baltimore.
1 JOHN R. PATTISON.....Cambridge.
2 JAMES H. COVINGTON.....Easton.
3 WILLIAM GRASON.....Towson.
4 WILLIAM C. DEVECMON.....Cumberland.
5 RIDGELY P. MELVIN.....Annapolis.
6 BLAIR LEE.....Rockville.
7 CHARLES H. STANLEY.....Laurel.
8 ALFRED S. NILES.....Baltimore.

COMMITTEE ON LEGAL EDUCATION.

CIRCUIT.

4 BENJAMIN A. RICHMOND, *Chairman*.....Cumberland.
1 P. L. GOLDSBOROUGH.....Cambridge.
2 JAMES A. PEARCE.....Chestertown.
3 DAVID G. MCINTOSH.....Towson.
5 JAMES A. C. BOND.....Westminster.
6 ASHLEY M. GOULD.....Rockville.
7 JOHN B. GRAY.....Prince Frederick.
8 JOHN P. POE.....Baltimore.
8 JOHN HINKLEY.....Baltimore.

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COMMITTEE ON GRIEVANCES.

CIRCUIT.

8 HARRY E. MANN, *Chairman*.....Baltimore.
1 JAMES E. ELLEGOOD.....Salisbury.
2 WILLIAM H. ADKINS.....Easton.
3 THOMAS H. ROBINSON.....Bel Air.
4 NORMAN B. SCOTT, JR.....Hagerstown.
5 GUY W. STEELE.....Westminster.
6 EDWARD S. EICHELBERGER.....Frederick.
7 B. HARRIS CAMALIER.....Leonardtown.
8 ALEXANDER H. ROBERTSON.....Baltimore.

COMMITTEE ON LEGAL BIOGRAPHY.

CIRCUIT.

8 CHARLES M. ARMSTRONG, *Chairman*.....Baltimore.
1 JOHN W. STATON.....Snow Hill.
2 FRED. R. OWENS.....Denton.
3 WILLIAM H. HARLAN.....Bel Air.
4 JAMES W. THOMAS.....Cumberland.
5 JAMES W. OWENS.....Annapolis.
6 EDWARD C. PETER.....Rockville.
7 W. MITCHELL DIGGES.....La Plata.
8 WILLIAM H. BRUNE.....Baltimore.

SPECIAL COMMITTEES.

COMMITTEE ON NOMINATIONS.

(Authorized in 1906.)

CIRCUIT.

4 CLAYTON PURNELL, *Chairman*.....Frostburg.
1 HENRY J. WATERS.....Princess Anne.
2 J. HARRY COVINGTON.....Easton.
3 ELMER J. COOK.....Towson.
5 JOHN G. ROGERS.....Ellicott City.
6 CHARLES W. PRETTYMAN.....Rockville.
7 JOHN B. GRAY.....Prince Frederick.
8 OSCAR LESER.....Baltimore.
8 JOHN PHELPS.....Baltimore.

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COMMITTEE ON SPECIAL AND LOCAL LAWS.

(Authorized in 1907.)

CIRCUIT.

8 OSCAR LESER, *Chairman*.....Baltimore.
3 S. A. WILLIAMS.....Bel Air.
6 GLENN H. WORTHINGTON.....Frederick.
3 OSBORNE I. YELLOTT.....Towson.
8 ISAAC LOBE STRAUS.....Baltimore.

COMMITTEE ON TORRENS LAND SYSTEM.

(Authorized in 1907.)

CIRCUIT.

8 MOSES R. WALTER, *Chairman*.....Baltimore.
8 MORRIS A. SOPER.....Baltimore.
8 REDMOND C. STEWART.....Baltimore.
8 W. BURNS TRUNDLE.....Baltimore.
8 GEORGE WEEMS WILLIAMS.....Baltimore.

COMMITTEE TO ASSIST IN REVISION OF CORPORATION LAWS.

(Authorized in 1907.)

CIRCUIT.

4 DEWARREN H. REYNOLDS, *Chairman*.....Cumberland.
2 HOPE H. BARROLL.....Chestertown.
2 EDWIN H. BROWN, JR.....Centreville.
2 J. FRANK HARPER.....Centreville.
3 J. EDWIN WEBSTER.....Bel Air.
4 J. AUGUSTINE MASON.....Hagerstown.
6 GLENN H. WORTHINGTON.....Frederick.

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FORMER PRESIDENTS.

JAMES McSHERRY,

Frederick.

ROBERT RANDOLPH HENDERSON,

Cumberland.

JOHN PRENTISS POE,

Baltimore.

HENRY PAGE,

Princess Anne.

STEVENSON ARCHER WILLIAMS,

Bel Air.

JOHN SLUYTER WIRT,

Elkton.

BENJAMIN ARMSTRONG RICHMOND,

Cumberland.

GEORGE WHITELOCK,

Baltimore.

JAMES A. C. BOND,

Westminster.

JOHN PARRAN BRISCOE,

Prince Frederick.

CONWAY WHITTLE SAMS,

Baltimore.

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LOCAL BAR ASSOCIATIONS
IN MARYLAND.

PRESIDENT:	SECRETARY:
Allegany County Bar Association.	
David J. Lewis.	D. Lindley Sloan.
The Bar Association of Baltimore City.	
Robert H. Smith.	James W. Bowers, Jr.
Caroline County Bar Association.	
T. Pliney Fisher.	T. Allan Goldsborough.
Carroll County Bar Association.	
James A. C. Bond.	E. O. Grimes, Jr.
Cecil County Bar and Law Library Association.	
William S. Evans.	Joshua Clayton.
Garrett County Bar Association.	
Fred. A. Thayer.	Julius C. Renninger.
Montgomery County Bar Association.	
Hattersly W. Talbott.	Philip D. Laird.
Prince George's County Bar Association.	
George C. Merrick.	Allan Bowie.
Talbot County Bar Association.	
Joseph B. Seth.	T. Hughlett Henry.
Washington County Bar Association.	
J. Clarence Lane.	Abraham C. Strite.
Wicomico County Bar Association.	
Charles F. Holland.	Elmer H. Walton.

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OFFICERS
OF THE
AMERICAN BAR ASSOCIATION,
FOR 1906-1907.

PRESIDENT:

ALTON B. PARKER,

New York City.

SECRETARY:

JOHN HINKLEY,

215 *N. Charles Street, Baltimore, Md.*

TREASURER:

FREDERICK E. WADHAMS,

37 *Tweddle Building, Albany, N. Y.*

VICE-PRESIDENT FOR MARYLAND:

THOMAS J. MORRIS,

Baltimore, Md.

MEMBER OF GENERAL COUNCIL FOR MARYLAND:

GEORGE WHITELOCK,

Baltimore, Md.

LOCAL COUNCIL FOR MARYLAND:

JOHN P. BRISCOE, *Prince Frederick.*

GEORGE M. SHARP, *Baltimore.*

STEVENSON A. WILLIAMS, *Bel Air.*

ARTHUR STEUART, *Baltimore.*

RICHARD BERNARD, *Baltimore.*

FRANK G. TURNER, *Baltimore.*

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Alphabetical List of Members

ARRANGED BY CIRCUITS.

FIRST CIRCUIT.

		Year of Election.
Barnes, Adlai P.	Snow Hill	1895
Collins, Oliver D.	Snow Hill	1897
Covington, George W.	Snow Hill	1897
Duer, Robert F.	Princess Anne	1897
Ellegood, James E.	Salisbury	1896
Ewell, L. Paul	Pocomoke City	1907
Fitch, Nathan T.	Salisbury	1904
Freeny, Henry B.	Salisbury	1907
Goldsborough, Ph. Lee	Cambridge	1897
Jones, Robley D.	Snow Hill	1897
Lankford, Clarence P.	Crisfield	1896
Lankford, H. Fillmore	Princess Anne	1897
Lloyd, Henry	Cambridge	1897
Miles, Joshua W.	Princess Anne	1897
Page, Henry	Princess Anne	1896
Pattison, John R.	Cambridge	1897
Simmons, Thomas W.	Cambridge	1897
Stanford, H. L. D.	Princess Anne	1896
Staton, John W.	Snow Hill	1905
Toadvine, E. Stanley	Salisbury	1900
Tull, Gordon	Princess Anne	1897
Walton, Elmer H.	Salisbury	1904
Waters, Henry J.	Princess Anne	1896
Williams, Jay	Salisbury	1897

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SECOND CIRCUIT.

		Year of Election.
Adkins, William H.	Easton	1896
Barroll, Hope H.	Chestertown	1896
Beck, William W.	Chestertown	1897
Blake, George A.	Elkton	1900
Bordley, Madison B.	Centreville	1906
Brown, Edwin H., Jr.	Centreville	1904
Clayton, Joshua	Elkton	1903
Covington, James H.	Easton	1897
Crothers, Austin S.	Elkton	1898
Evans, William S.	Elkton	1898
Goldsborough, T. Alan	Denton	1906
Harper, J. Frank	Centreville	1906
Haines, L. M.	Elkton	1896
Henry, T. Hughlett	Easton	1906
Jump, John W. D.	Easton	1906
Keating, Thomas J., Jr.	Centreville	1896
Legg, J. H. C.	Centreville	1897
Lewis, Henry R.	Denton	1896
Miller, Guion	Easton	1901
Owens, Fred. R.	Denton	1897
Pearce, James A.	Chestertown	1896
Seth, Joseph B.	Easton	1899
Shehan, Wm. Mason	Easton	1906
Slay, William M.	Chestertown	1897
Squier, J. Wilson	Elkton	1907
Tharp, Alfred L.	Easton	1897
Tilghman, Oswald	Easton	1903
Towers, Albert G.	Denton	1897
Turner, J. Frank	Easton	1901
Urie, John D.	Chestertown	1897
Vickers, H. W.	Chestertown	1897
Vickers, H. W., Jr.	Chestertown	1907
Warburton, Wm. T.	Elkton	1898
Wickes, Lewin W.	Chestertown	1897
Wilson, George W.	Easton	1906

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THIRD CIRCUIT.

		Year of Election.
Biddison, John S.	Towson	1897
Boarman, Robert R.	Towson	1897
Burke, N. Charles	Towson	1897
Bussey, Robert H.	Towson	1898
Cook, Elmer J.	Towson	1898
Dallam, Richard	Bel Air	1902
Duncan, Frank I.	Towson	1898
Fahey, Michael H.	Havre de Grace	1904
Gontrum, John F.	Towson	1897
Grason, William	Towson	1898
Harlan, William H.	Bel Air	1901
Hopper, Peter L.	Havre de Grace	1904
Isaac, Z. Howard	Towson	1903
Lindsay, James J.	Towson	1896
Little, John Mays	Towson	1907
McIntosh, David G.	Towson	1898
McIntosh, David G., Jr.	Towson	1904
Offutt, T. Scott	Towson	1901
Piper, A. A.	Towson	1907
Robinson, Thomas H.	Bel Air	1896
Rouse, Willard G.	Bel Air	1896
Shanklin, Arthur P.	Towson	1899
Van Bibber, George L.	Bel Air	1898
Webster, J. Edwin	Bel Air	1896
Whitaker, Harry H.	Bel Air	1904
Williams, Stevenson A.	Bel Air	1897
Worthington, John D.	Bel Air	1904
Yellott, Osborne I.	Towson	1898
Young, John S.	Bel Air	1896

FOURTH CIRCUIT.

Alvey, Charles	Hagerstown	1897
Barnes, P. C.	Cumberland	1901
Blackistone, D. J.	Cumberland	1896

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FOURTH CIRCUIT—Continued.

		Year of Election.
Boyd, A. Hunter	Cumberland	1896
Bridges, F. Wilbur	Hagerstown	1907
Davis, George A	Hagerstown	1905
Devecmon, W. C	Cumberland	1896
Doub, A. A	Cumberland	1896
Doub, Daniel W	Hagerstown	1896
Gordon, Robert H	Cumberland	1896
Hagner, Alex. R	Hagerstown	1905
Halm, Reinhold J	Hagerstown	1905
Hamill, Gilmor S	Oakland	1897
Hartle, Elias B	Hagerstown	1905
Henderson, Robert R	Cumberland	1896
Hendrickson, Finley C	Cumberland	1900
Keedy, Henry H., Jr	Hagerstown	1905
Keedy, M. L	Hagerstown	1896
Kealhofer, William	Hagerstown	1897
Lane, J. Clarence	Hagerstown	1896
Little, C. A	Hagerstown	1896
Long, Albert J	Hagerstown	1905
Lowndes, Lloyd, Jr	Cumberland	1900
Macbeth, James E	Cumberland	1900
Mason, J. Augustine	Hagerstown	1897
McCleave, Hugh R	Cumberland	1900
McComas, Louis E	Hagerstown	1897
McHenry, James A	Cumberland	1897
McMichael, Robert W	Cumberland	1897
Mitchell, John T	Oakland	1900
Morrison, Taylor	Cumberland	1898
Neill, Alexander	Hagerstown	1896
Pearre, George A	Cumberland	1898
Poffenberger, Thos. A	Hagerstown	1905
Purnell, Clayton	Frostburg	1896
Renninger, Julius C	Oakland	1901
Reynolds, DeWarren H	Cumberland	1896
Richmond, Benj. A	Cumberland	1896

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FOURTH CIRCUIT—Continued.

		Year of Election.
Robb, David A.	Cumberland	1900
Schley, Buchanan	Hagerstown	1896
Scott, Norman B., Jr.	Hagerstown	1896
Sincell, Edward H.	Oakland	1898
Sloan, D. Lindley	Cumberland	1900
Smith, George W., Jr.	Hagerstown	1896
Strite, Abraham C.	Hagerstown	1896
Thomas, James W.	Cumberland	1897
Wagaman, Charles D.	Hagerstown	1896
Walsh, William E.	Cumberland	1896
Whiting, F. Brooke	Cumberland	1901
Williams, Ferdinand	Cumberland	1897
Willison, Jasper N	Cumberland	1900
Wilson, Austin A.	Cumberland	1897
Witzenbacker, Wm. J.	Hagerstown	1896
Wingert, Henry F.	Hagerstown	1897
Wingert, William	Hagerstown	1905
Young, Archibald A.	Cumberland	1905

FIFTH CIRCUIT.

Bond, J. A. C.	Westminster	1896
Brady, A. Theodore	Annapolis	1901
Brashears, James R.	Annapolis	1904
Clabaugh, Harry M.	Westminster	1896
Claude, Dennis	Annapolis	1904
Claude, W. Hallam	Annapolis	1898
Crouse, B. Frank	Westminster	1902
Fink, Charles E.	Westminster	1896
Green, Nicholas H.	Annapolis	1899
Grimes, E. Oliver	Westminster	1902
Hammond, Edward M.	Ellicott City	1907
Henning, David N.	Westminster	1896
Magruder, Daniel R.	Annapolis	1904
Melvin, Ridgely P.	Annapolis	1907

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FIFTH CIRCUIT—Continued.

		Year of Election.
MUNROE, JAMES M.	Annapolis	1899
MURRAY, DANIEL M.	Ellicott City	1905
OWENS, JAMES W.	Annapolis	1898
PARKE, FRANCIS NEAL	Westminster	1898
RANDALL, DANIEL R.	Annapolis	1904
RANDALL, JOHN WIRT	Annapolis	1904
REIFSNIDER, J. MILTON	Westminster	1898
REVELL, JAMES	Annapolis	1900
RILEY, ELIHU S.	Annapolis	1896
RILEY, HUGH R.	Annapolis	1904
ROBERTS, JOHN M.	Westminster	1902
ROGERS, JOHN G.	Ellicott City	1898
SMITH, JERRY L.	Annapolis	1901
STEELE, GUY W.	Westminster	1898
STOCKETT, FRANK H.	Annapolis	1904
THOMAS, WILLIAM H.	Westminster	1899
WALSH, MICHAEL E.	Westminster	1898
WEANT, EDWARD O.	Westminster	1898

SIXTH CIRCUIT.

EICHELBERGER, EDWD. S.	Frederick	1896
GOULD, ASHLEY M.	Rockville	1898
JOHNSTON, WALTER A.	Kensington	1903
LAMAR, WILLIAM H.	Rockville	1906
LEE, BLAIR	Rockville	1907
MCSHERRY, JAMES	Frederick	1896
MCSHERRY, J. ROGER	Frederick	1897
MOTTER, JOHN C.	Frederick	1897
NEWMAN, JOHN S.	Frederick	1903
NORWOOD, FRANK C.	Frederick	1897
PETER, ARTHUR	Rockville	1906
PETER, EDWARD C.	Rockville	1902
PRETTYMAN, CHARLES W.	Rockville	1900
SEYBOLD, VINCENT	Frederick	1897

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SIXTH CIRCUIT—Continued.

		Year of Election.
TALBOTT, WILLIAM H.	Rockville	1896
TALBOTT, HATTERSLY W.	Rockville	1899
URNER, HAMMOND	Frederick	1897
URNER, MILTON G.	Frederick	1897
WILLARD, ARTHUR D.	Frederick	1903
WORTHINGTON, GLENN H.	Frederick	1897

SEVENTH CIRCUIT.

BEALL, FILLMORE	Sunnyside	1906
BRISCOE, JOHN P.	Prince Frederick	1896
BUNTING, J. BRISCOE	Prince Frederick	1896
CAMALIER, B. HARRIS	Leonardtown	1901
CHEW, PHILIP W.	Upper Marlboro	1896
CRONMILLER, JOHN D.	Laurel	1907
DIGGES, W. MITCHELL	La Plata	1905
GANTT, FRANCIS E.	Prince Frederick	1904
GRAY, JOHN B.	Prince Frederick	1896
HILL, F. SNOWDEN	Upper Marlboro	1906
LEWIN, WILLIAM M.	Hyattsville	1904
MATTINGLY, J. C.	Rosscroft	1902
MELOY, WILLIAM A.	Lanham	1903
MERRICK, GEORGE B.	Upper Marlboro	1907
MERRICK, GEORGE C.	Upper Marlboro	1899
MITCHELL, WALTER J.	La Plata	1905
MUDD, SYDNEY E.	La Plata	1907
PARRAN, J. FRANK	Prince Frederick	1896
RALSTON, JACKSON H.	Hyattsville	1896
ROBERTS, CLARENCE M.	Upper Marlboro	1907
ROGERS, JAMES C.	Hyattsville	1900
SASSCER, FREDERICK	Upper Marlboro	1900
VEITCH, PERCY H.	Hyattsville	1901
WELLS, ROBERT W.	Hyattsville	1903
WILMER, L. ALLISON	La Plata	1896

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EIGHTH CIRCUIT.

		Year of Election.
ABERCROMBIE, HARRY N.	624 Equitable Bldg., Balto.	1903
AMBLER, JAMES M.	207 N. Calvert St., Balto.	1897
APPLEGARTH, RUFUS W.	10 E. Lexington St., Balto.	1897
ARMSTRONG, CHARLES M.	19 W. Saratoga St., Balto.	1903
ASH, DAVID	102 E. Lexington St., Balto.	1905
BAETJER, EDWIN G.	1409 Continental Trust Bldg., Balto.	1898
BAGBY, CHARLES T.	16 St. Paul St., Balto.	1905
BAGBY, GEORGE P.	16 St. Paul St., Balto.	1905
BAKER, J. HENRY	225 Law Bldg., Balto.	1899
BAKER, O. PARKER	215 St. Paul St., Balto.	1901
BALDWIN, CHARLES G.	224 St. Paul St., Balto.	1905
BALDWIN, RIGNAL W.	224 St. Paul St., Balto.	1904
BANSEMER, WILLIAM S.	13 Gunther Bldg., Balto.	1903
BARNES, WILLIAM R.	52 Gunther Bldg., Balto.	1907
BARTLETT, J. KEMP	Cor. Calvert & German Sts., Balto.	1903
BARTON, RANDOLPH	207 N. Calvert St., Balto.	1903
BARTON, RANDOLPH, JR.	207 N. Calvert St., Balto.	1907
BAYARD, RICHARD H.	707 Gaither Bldg., Balto.	1904
BAYLESS, WILLIAM H.	510 Fidelity Bldg., Balto.	1897
BEACH, ROBERT W.	1001 Union Trust Bldg., Balto.	1906
BEEUWKES, C. JOHN	628 Equitable Bldg., Balto.	1907
BENSON, CARVILLE D.	609 Law Bldg., Balto.	1903
BENSON, CLIFTON DOLL	223 St. Paul St., Balto.	1907
BENZINGER, HARRY M.	215 St. Paul St., Balto.	1903
BERNARD, ALFRED D.	3 E. Lexington St., Balto.	1897
BERNARD, RICHARD	3. E. Lexington St., Balto.	1897
BERNEI, LOUIS B.	261 Calvert Bldg., Balto.	1897
BIGGS, ROBERT	828 Law Bldg., Balto.	1903
BINSWANGER, A. C.	563 Calvert Bldg., Balto.	1904
BONAPARTE, CHARLES J.	216 St. Paul St., Balto.	1903
BOND, CARROLL T.	701 Maryland Trust Bldg., Balto.	1903
BOND, HUGH L., JR.	B. & O. Bldg., Balto.	1903
BOND, NICHOLAS P.	1310 Continental Trust Bldg., Balto.	1896
BONN, WILLIAM EWIN	3 E. Lexington St., Balto.	1907
BOUCHET, CHARLES J.	215 St. Paul St., Balto.	1904

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EIGHTH CIRCUIT—Continued.

		Year of Election.
Bowers, James W., Jr.	16 E. Lexington St., Balto.	1901
Bowie, Washington, Jr.	Fidelity Bldg., Balto.	1900
Boyd, J. Cookman	16 Builders' Exchange Bldg., Balto.	1899
Bramble, Forrest	33 Knickerbocker Bldg., Balto.	1903
Brantly, William T.	10 E. Fayette St., Balto.	1897
Brent, Robert E.	104 E. Lexington St., Balto.	1897
Brewer, James R., Jr.	303 Maryland Tel. Bldg., Balto.	1904
Bristor, Joseph W.	222 Law Bldg., Balto.	1903
Broening, Henry J.	230 St. Paul St., Balto.	1897
Broening, William F.	230 St. Paul St., Balto.	1905
Brown, Arthur George	841 Calvert Bldg., Balto.	1897
Brown, Stewart	222 St. Paul St., Balto.	1896
Brownley, Edwin H.	800 Equitable Bldg., Balto.	1907
Brune, William H.	1243 Calvert Bldg., Balto.	1897
Bryan, William S., Jr.	308 Maryland Tel. Bldg., Balto.	1898
Bryant, Howard	112 E. Lexington St., Balto.	1903
Buckler, William H.	Evergreen Terrace, Balto.	1903
Budnitz, Emil	20 E. Lexington St., Balto.	1897
Burger, Louis J.	215 N. Charles St., Balto.	1903
Burton, Robert	463 Calvert Bldg., Balto.	1899
Calwell, James S.	215 St. Paul St., Balto.	1903
Campbell, Peter J.	20 E. Lexington St., Balto.	1896
Carey, Francis K.	609 Calvert Bldg., Balto.	1896
Carr, James E., Jr.	727 Law Bldg., Balto.	1899
Carr, Robert H.	751 Equitable Bldg., Balto.	1907
Carrington, Edward C.	110 E. Lexington St., Balto.	1897
Carter, Bernard	3 E. Lexington St, Balto.	1902
Carter, John M.	222 St. Paul St., Balto.	1903
Chancellor, A. Bernard	207 St. Paul St., Balto.	1897
Chapman, James W., Jr.	1163 Calvert Bldg., Balto.	1900
Chesnut, W. Calvin	1137 Calvert Bldg., Balto.	1902
Claggett, L. B. Keene	Cor. Calvert & German Sts., Balto.	1904
Clift, J. Booker	1910 Mt. Royal Terrace, Balto.	1904
Clotworthy, C. Baker	1400 Continental Trust Bldg., Balto.	1903
Coady, Charles P.	10 South St., Balto.	1905

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EIGHTH CIRCUIT—Continued.

		Year of Election.
COE, WARD BALDWIN	404 Fidelity Bldg., Balto	1907
CONRAD, J. FRED., JR	528 Law Bldg., Balto	1905
COOK, FILLMORE	528 Law Bldg., Balto	1907
COOK, VERNON	1137 Calvert Bldg., Balto	1903
COPENHAVER, THOMAS N	220 St. Paul St., Balto	1904
CRAIN, ROBERT	809 Calvert Bldg., Balto	1858
CROSS, JOHN EMORY	809 Maryland Trust Bldg., Balto	1907
CROSS, RICHARD K	10 E. Fayette St., Balto	1897
CROSS, W. IRVINE	B. & O. Bldg., Balto	1897
CURLEY, JAMES P	8 E. Lexington St., Balto	1900
DALLAM, FREDERICK	Marine Bank Bldg., Balto	1903
DARNALL, R. BENNETT	408 Fidelity Bldg., Balto	1903
DAWKINS. WALTER I	408 Fidelity Bldg., Balto	1896
DAWSON, WILLIAM H	702 Fidelity Bldg., Balto	1897
DEMING, JOHN B	1407 Continental Trust Bldg, Balto	1904
DENHARD, AUGUSTUS M	3 E. Lexington St., Balto	1905
DENNIS, JAMES U	406 Equitable Bldg., Balto	1901
DENNIS, J. UPSHUR	Athenæum Club, Balto	1897
DENNIS, OREGON MILTON	130 Law Bldg., Balto	1904
DENNY, JAMES W	209 St. Paul St., Balto	1897
DILLEHUNT, HARRY B	221 St. Paul St, Balto	1899
DOBLER, JOHN J	Harford Road, Balto	1897
DONALDSON, ALBERT E	809 Calvert Bldg., Balto	1903
DONALDSON, JOHN J	220 St. Paul St., Balto	1897
DORTON, FREDERICK T	10 South St., Balto	1899
DUNCAN, WILLIAM	707 Fidelity Bldg., Balto	1906
DUVALL, RICHARD M	16 E. Lexington St., Balto	1903
ELLIOTT, THOMAS I	10 South St., Balto	1897
EMBERT, T. HOWARD	810 Equitable Bldg., Balto	1907
EMMONS, HOWARD M	953 Calvert Bldg., Balto	1907
EMORY, GERMAN H. H	709 Calvert Bldg., Balto	1907
FARBER, EDWIN J	1243 Calvert Bldg., Balto	1898
FECHTIG, JAMES A., JR	455 Calvert Bldg., Balto	1900
FIELD, CHARLES W	1057 Calvert Bldg., Balto	1907
FINCH, GEORGE A	455 Calvert Bldg., Balto	1906

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EIGHTH CIRCUIT—Continued.

		Year of Election.
FINK, J. AUSTIN	828 Law Bldg., Balto	1903
FISHER, D. K. ESTE	1003 American Bldg., Balto	1897
FOSTER, ARTHUR D	922 Equitable Bldg, Balto	1903
FOSTER, REUBEN CARLL	922 Equitable Bldg, Balto	1903
FOWLER, DAVID	1407 Continental Trust Bldg., Balto	1897
FRANCE, JOSEPH C	1206 Continental Trust Bldg., Balto	1897
FRANK, ELI	922 Equitable Bldg., Balto	1903
FRANK, LOUIS N	569 Calvert Bldg., Balto	1905
GAITHER, GEORGE R., JR	815 Gaither Bldg., Balto	1899
GAITHER, HARRY C	125 Law Bldg., Balto	1906
GANS, EDGAR H	1137 Calvert Bldg., Balto	1897
GARNETT, J. MERCER, JR	1243 Calvert Bldg., Balto	1907
GIBSON, EDWARD GUEST	909 Calvert Bldg, Balto	1897
GILL, ROBERT L	215 St. Paul St., Balto	1903
GILL, ROGER T	215 St. Paul St., Balto	1900
GORMAN, ARTHUR P., JR	712 Equitable Bldg., Balto	1902
GORTER, JAMES P	224 St. Paul St., Balto	1896
GOSNELL, FRANK	700 Maryland Trust Bldg., Balto	1896
GRAHAM, ROBERT P	500 Maryland Tel. Bldg., Balto	1896
GREENBAUM, LEON	815 Gaither Bldg., Balto	1903
GREGG, MAURICE	528 Equitable Bldg., Balto	1896
GRESSITT, N. IRVIN	412 Fidelity Bldg., Balto	1902
GRIFFIN, EDWIN J	1704 Eastern Ave., Balto	1897
GRILL, JOHN H	201 Law Bldg., Balto	1904
GRISWOLD, B. HOWELL	Balto. and Calvert Sts., Balto	1903
HALL, R. E. LEE	18 E. Lexington St, Balto	1905
HAMAN, B. HOWARD	1137 Calvert Bldg., Balto	1903
HAMMOND, W. BROWNE	215 St. Paul St., Balto	1905
HARDCASTLE, ALEX., JR	701 Calvert Bldg., Balto	1898
HARLAN, HENRY D	9 E. Biddle St., Balto	1897
HARMAN, SAMUEL J	708 Fidelity Bldg., Balto	1898
HARVEY, ROLAND B	401 Calvert Bldg., Balto	1900
HARRIS, W. HALL	216 St. Paul St., Balto	1903
HAYES, THOMAS G	202 N. Calvert St., Balto	1897
HEIMILLER, H. T. W	22 E. Lexington St., Balto	1907

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EIGHTH CIRCUIT—Continued.

		Year of Election.
HENNIGHAUSEN, LOUIS P.	215 St. Paul St, Balto	1897
HENNIGHAUSEN, PERCY C.	215 St. Paul St, Balto	1897
HERMAN, EMANUEL W.	10 E. Lexington St., Balto	1898
HERSHEY, O. F.	809 Calvert Bldg., Balto	1898
HERZOG, ARTHUR	112 E. Lexington St., Balto	1903
HERZOG, CHARLES	112 E. Lexington St., Balto	1897
HEUISLER, CHARLES W.	1109 Calvert Bldg, Balto	1897
HILL, CHARLES E.	712 Keyser Bldg., Balto	1898
HINKLEY, JOHN	215 N. Charles St., Balto	1896
HISKY, THOMAS FOLEY	215 N. Charles St., Balto	1897
HOCHHEIMER, LEWIS	215 Courtland St., Balto	1904
HOMER, FRANCIS T.	213 Courtland St., Balto	1903
HORSEY, JOHN P.	1137 Calvert Bldg., Balto	1907
HOULTON, SAMUEL C.	9 Builders' Exchange Bldg, Balto	1897
HOWARD, CHARLES MCH.	1409 Continental Trust Bldg., Balto	1906
HOWARD, CHAS. MORRIS	700 Equitable Bldg., Balto	1897
HUBNER, HENRY H.	509 Union Trust Bldg., Balto	1903
HUGHES, ADRIAN	223 St. Paul St., Balto	1897
HUGHES, THOMAS	223 St. Paul St., Balto	1903
HURST, JOHN J.	1201 Calvert Bldg., Balto	1900
INGRAM, JAMES E., JR.	500 Maryland Tel. Bldg., Balto	1902
JACKSON, ARTHUR L.	943 Calvert Bldg., Balto	1907
JANNEY, STEUART S.	745 Calvert Bldg., Balto	1906
JOHNSON, J. HEMSLEY	836 Equitable Bldg., Balto	1897
JONES, SAMUEL M.	207 N. Calvert St., Balto	1906
KARR, HARRY E.	609 Law Bldg., Balto	1903
KELLY, CHARLES M.	400 Law Bldg., Balto	1903
KEMP, W. THOMAS	1407 Continental Trust Bldg., Balto	1904
KENNARD, HENRY C.	909 Calvert Bldg., Balto	1899
KENNEY, MARTIN G.	800 Equitable Bldg, Balto	1905
KNAPP, CHARLES H.	708 Fidelity Bldg., Balto	1899
KNOTT, A. LEO	323 N. Charles St., Balto	1897
KOONTZ, EDWARD I.	1407 Continental Trust Bldg., Balto	1904
LAUCHHEIMER, SYLVAN H.	815 Gaither Bldg., Balto	1899
LAWRENCE, WILLIAM H.	809 Law Bldg., Balto	1907

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EIGHTH CIRCUIT—Continued.

		Year of Election.
LEE, RICHARD LAWS	232 St. Paul St., Balto	1897
LEHMAYER, MARTIN	569 Calvert Bldg, Balto	1897
LESER, OSCAR	American Bldg., Balto	1901
LEVY, WILLIAM B	408 Fidelity Bldg., Balto	1898
LEWIS, WM. PENN, JR	9 Builders' Exchange Bldg., Balto	1898
LINTHICUM, J. CHARLES	220 St. Paul St., Balto	1904
LITTIG, WARD P	814 Law Bldg., Balto	1905
LORD, J. WALTER	B. & O. Bldg., Balto	1903
LYELL, J. MILTON	1163 Calvert Bldg., Balto	1907
LYONS, WILLIAM P	950 Equitable Bldg, Balto	1906
MCCORMICK, HOWARD	701 Calvert Bldg., Balto	1903
MCEVOY, JAMES, JR	213 Courtland St., Balto	1903
MACHEN, ARTHUR W., JR	3 E. Lexington St., Balto	1903
MACKALL, THOMAS B	222 St. Paul St, Balto	1897
MACKENZIE, THOMAS	607 Continental Trust Bldg., Balto	1902
MANN, HARRY E	100 E. Lexington St., Balto	1897
MARBURY, WILLIAM L	700 Maryland Trust Bldg., Balto	1897
MARSHALL, R. E. LEE	841 Calvert Bldg., Balto	1904
MERRIKEN, CHARLES LEE	213 Courtland St., Balto	1903
MEYER, LEE S	3 E. Lexington St., Balto	1901
MILES, ALONZO L	709 Calvert Bldg, Balto	1897
MILLER, CHARLES R	Fidelity Bldg., Balto	1903
MILLER, C. WILBUR	1310 Continental Trust Bldg., Balto	1905
MILLER, EDGAR G., JR	509 Calvert Bldg., Balto	1903
MILLS, J. BIBB	835 Equitable Bldg., Balto	1903
MORRIS, JOHN T	709 Calvert Bldg., Balto	1899
MORRIS, THOMAS J	708 Park Ave., Balto	1897
MORRISON, GEORGE C	Equitable Bldg., Balto	1901
MOSES, JACOB M	618 Equitable Bldg, Balto	1903
MULLIN, MICHAEL A	609 Fidelity Bldg., Balto	1897
MURPHY, JOHN V. L	602 Law Bldg., Balto	1905
MUSGRAVE, G. W. S	711 Fidelity Bldg., Balto	1907
NEWBOLD, DAVID M., JR	332 Equitable Bldg., Balto	1907
NILES, ALFRED S	928 Equitable Bldg., Balto	1897
NITZEL, HENRY M	204 N. Calvert St., Balto	1904

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EIGHTH CIRCUIT—Continued.

		Year of Election.
O'Brien, William J., Jr.	1009 Calvert Bldg., Balto.	1897
O'Dunne, Eugene	110 Court House, Balto.	1905
Oudesluys, Eugene	46 Builders' Exchange Bldg., Balto.	1903
Owens, Albert S. J.	Court House, Balto.	1903
Parker, W. W.	3 E. Lexington St., Balto.	1907
Packard, Joseph	207 N. Calvert St., Balto.	1897
Pegram, Francis E.	837 Equitable Bldg., Balto.	1903
Penrose, William	209 St. Paul St., Balto.	1902
Perkins, Clarence W.	10 South St., Balto.	1905
Perkins, William H., Jr.	700 Equitable Bldg., Balto.	1900
Phelps, Charles E.	Walbrook	1897
Phelps, John	1109 Calvert Bldg., Balto.	1903
Pirscher, William F.	225 St. Paul St., Balto.	1907
Poe, John P.	100 E. Lexington St., Balto.	1896
Poe, S. Johnson	100 E. Lexington St., Balto.	1903
Porter, Gilbert B.	626 Equitable Bldg., Balto.	1907
Preston, James H.	220 St. Paul St., Balto.	1903
Putzel, Lewis	406 Law Bldg., Balto.	1901
Quigley, Charles H.	801 Gaither Bldg., Balto.	1899
Reifsnider, Charles T.	10 E. Lexington St, Balto.	1899
Requardt, John M.	54 Gunther Bldg., Balto.	1906
Rhodes, Frank V.	701 Fidelity Bldg., Balto.	1897
Rich, Edward N.	808 Union Trust Bldg., Balto.	1903
Riggs, Laurie H.	510 Fidelity Bldg., Balto.	1907
Ritchie, Albert C.	745 Calvert Bldg., Balto.	1903
Robertson, Alexander H.	Gunther Bldg., Balto.	1896
Robinson, Ralph	1310 Continental Trust Bldg., Balto.	1896
Rogers, Robert L.	46 Post Office Bldg., Balto.	1897
Rose, John C.	626 Equitable Bldg., Balto.	1897
Rosenbush, Myer	261 Calvert Bldg., Balto.	1903
Rusk, Harry Welles	618 Law Bldg., Balto.	1903
Sadtler, Howard P.	1163 Calvert Bldg., Balto.	1897
Sams, Conway W.	836 Equitable Bldg., Balto.	1896
Sappington, A. DeR.	308 Maryland Tel. Bldg, Balto.	1897
Sappington, Edward H.	308 Maryland Tel. Bldg., Balto.	1903

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EIGHTH CIRCUIT—Continued.

		Year of Election.
SAUERWEIN, E. ALLEN, JR.	1109 Calvert Bldg., Balto	1903
SAVAGE, GEORGE	520 N. Charles St., Balto	1897
SCHERMERHORN, A. VAN R.	Cor. Calvert & German Sts., Balto	1905
SCHILPP, JOHN G.	841 Calvert Bldg, Balto	1905
SCHMITZ, BERNARD A.	110 E. Lexington St., Balto	1901
SCHMUCKER, SAMUEL D.	1712 Park Ave., Balto	1897
SEMMES, JOHN E.	828 Equitable Bldg., Balto	1904
SETH, ALEXANDER L.	100 E. Lexington St., Balto	1907
SHARP, ABRAHAM	943 Calvert Bldg., Balto	1904
SHARP, GEORGE M.	2105 St. Paul St., Balto	1896
SHRIVER, ALFRED JENKINS	700 Equitable Bldg., Balto	1906
SINGLEY, FREDERICK J.	215 N. Charles St., Balto	1903
SKINNER, MAURICE E.	805 Calvert Bldg., Balto	1897
SLINGLUFF, FIELDER C.	1008 Union Trust Bldg., Balto	1899
SLINGLUFF, R. LEE	1008 Union Trust Bldg., Balto	1903
SLINGLUFF, T. ROLAND	1008 Union Trust Bldg., Balto	1903
SMITH, ROBERT H.	624 Equitable Bldg., Balto	1897
SMITH, WILLIAM B.	606 Union Trust Bldg., Balto	1907
SMITH, WILLIAM C.	10 South St., Balto	1901
SOLTER, GEORGE A.	943 Calvert Bldg., Balto	1904
SOPER, MORRIS A.	626 Equitable Bldg, Balto	1903
SPAMER, C. AUGUSTUS	215 N. Charles St., Balto	1897
SPENCER, LINDSAY C.	601 Gaither Bldg., Balto	1907
STANLEY, CHARLES H.	8 E. Lexington St., Balto	1897
STANTON, ROBERT F.	209 St. Paul St., Balto	1903
STEINER, HUGO	406 Law Bldg., Balto	1897
STEIN, CHARLES F.	215 St. Paul St., Balto	1903
STEWART, DAVID	213 St. Paul St, Balto	1897
STEWART, HYLAND P.	510 Fidelity Bldg., Balto	1901
STEWART, REDMOND C.	207 N. Calvert St., Balto	1902
STIMPSON, HERBERT B.	207 N. Calvert St., Balto	1903
STOCKBRIDGE, HENRY	11 N. Calhoun St., Balto	1897
STORY, FREDERICK W.	9 Builders' Exchange Bldg., Balto	1897
STRAUS, ISAAC LOBE	463 Calvert Bldg., Balto	1900
STRINGER, EDWIN R.	215 St. Paul St., Balto	1907

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EIGHTH CIRCUIT—Continued.

		Year of Election.
STUMP, H. ARTHUR	224 St. Paul St., Balto	1904
SURRATT, WILLIAM H	3 E. Lexington St., Balto	1901
TAYLOR, ARCHIBALD H	901 Maryland Trust Bldg., Balto	1898
THOMAS, GEORGE C	429 Law Bldg., Balto	1899
THOMAS, GEORGE L	1102 McCulloh St., Balto	1897
THOMAS, J. HANSON	841 Calvert Bldg., Balto	1904
THOMAS, WILLIAM S	507 Fidelity Bldg., Balto	1898
THRIFT, JAMES F	213 St. Paul St., Balto	1907
TIERNAN, CHARLES B	20 E. Lexington St., Balto	1897
TIPPETT, RICHARD B	11 E. Lexington St., Balto	1897
TOME, PETER E	401 American Bldg., Balto	1898
TOWERS, WILLIAM G	35 Knickerbocker Bldg., Balto	1904
TRIPPE, ANDREW C	347 N. Charles St., Balto	1904
TRIPPE, JAMES McC	347 N. Charles St., Balto	1903
TRUNDLE, W. BURNS	301 St. Paul St., Balto	1897
TUCK, PHILEMON H	207 N. Calvert St., Balto	1903
TUCKER, CLARENCE A	708 Fidelity Bldg., Balto	1903
TUCKER, W. FRANK	223 St. Paul St., Balto	1905
TURNER, FRANK G	3 E. Lexington St., Balto	1899
TYLER, J. EDWARD, JR	404 Fidelity Bldg., Balto	1907
TYSON, A. MORRIS	207 N. Calvert St., Balto	1897
ULMAN, JOSEPH N	708 Fidelity Bldg., Balto	1907
ULRICH, HENRY A	24 Builders' Exchange Bldg., Balto	1907
UPSHUR, GEORGE M	Law Bldg., Balto	1898
VENABLE, RICHARD M	1409 Continental Trust Bldg., Balto	1897
WALRAVEN, JOHN H	818 Law Bldg., Balto	1907
WALTER, MOSES R	609 Union Trust Bldg., Balto	1897
WARFIELD, EDWIN	Fidelity Bldg., Balto	1897
WARFIELD, JOHN	321 St. Paul St., Balto	1898
WARNER, C. HOPEWELL	10 E. Fayette St., Balto	1897
WATERS, J. SEYMOUR T	528 Equitable Bldg., Balto	1899
WATTS, P. BARTLEY	222 St. Paul St., Balto	1897
WEEKS, THOMAS C	826 Law Bldg., Balto	1907
WEHR, ALBERT H	528 Law Bldg., Balto	1905
WHEATLEY, WILLIAM A	10 E. Fayette St., Balto	1906

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EIGHTH CIRCUIT—Continued.

		Year of Election.
WHELAN, THOMAS A.	509 Fidelity Bldg, Balto.	1897
WHELTLE, JOHN B. A.	Maryland Telephone Bldg., Balto.	1903
WHITELOCK, GEORGE	1407 Continental Trust Bldg., Balto.	1896
WICKES, PERE L.	920 St. Paul St., Balto.	1903
WILLIAMS, GEORGE W.	700 Maryland Trust Bldg., Balto.	1900
WILLIAMS, HENRY W.	507 Fidelity Bldg., Balto.	1903
WILLIAMS, JOHN F.	801 Gaither Bldg., Balto.	1897
WILLIAMS, N. WINSLOW	507 Fidelity Bldg, Balto.	1903
WILLIS, GEORGE R.	213 Courtland St., Balto.	1897
WILSON, JOHN G.	B. & O. Bldg., Balto.	1897
WOLFF, OSCAR	928 Equitable Bldg., Balto.	1898
WRIGHT, DANIEL GIRAUD	142 W. Lanvale St., Balto.	1897
WYMAN, JULIUS H.	602 Law Bldg., Balto.	1907

WASHINGTON, D. C.

BOWEN, PHILANDER A., JR.	1410 G St. N. W., Washington	1898
DUFFY, JOHN	1767 Willard St. N. W., Washington	1904

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CONSTITUTION.

NAME.

ARTICLE I.—This Association shall be known as "The Maryland State Bar Association."

OBJECT.

ARTICLE II.—The Association is formed to advance the science of Jurisprudence, to promote reform in the Law, to facilitate the administration of justice, to uphold the standard of integrity, honor and courtesy in the legal profession, to encourage legal education and to cultivate a spirit of cordiality and brotherhood among the members of the Bar.

MEMBERSHIP.

ARTICLE III.—The members of the legal profession of the State of Maryland attending this Convention this twenty-eighth day of August, 1896, are hereby declared to be members of this Association, provided they shall, during its present session, sign this Constitution and pay the admission fee hereinafter provided.

Any other member of the legal profession in good standing residing or practising in the State of Maryland, who shall have been at the Bar of this State for at least three years, may become a member upon nomination and vote of the Association or action of its Committee on Admissions, as hereinafter provided.

ELECTION OF MEMBERS.

(As amended in 1907.)

ARTICLE IV.—Nominations for membership may be made to the President of the Association, and be by him at once reported to the Committee on Admissions, which shall thereupon examine the same and report thereon with its recommendation to the Association at its next Annual Meeting. The members of the Association at such meeting shall thereupon vote upon said nomination by bal-

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lot. Several nominees may be voted for upon the same ballot and in such case placing the word "No" against any name or names upon the ballot shall be deemed a negative vote, as to such name or names and against those only; but during the period between the Annual Meetings members may be elected by the Executive Committee upon the written nomination of at least two members of the Association, approved by the member of the Committee on Admissions from the proposed member's Judicial Circuit. One negative vote in every five shall suffice to defeat an election. No member of the Bar residing in a County or City where there is a Local Bar Association shall become a member of this Association unless he shall also be a member of such Local Association. This clause, however, shall not apply to the State or Federal Judges, nor shall it apply to members of the Bar of any County or City having a Local Bar Association which has not held a meeting for two years.

OFFICERS.

ARTICLE V.—The officers of the Association shall be a President, who shall be ineligible to re-election on the expiration of his term; one Vice-President from each Judicial Circuit represented by membership in the Association, other than Baltimore City, and two from Baltimore City; a Secretary and a Treasurer. All of these shall be elected at the Annual Meeting and hold their offices until the next Annual Meeting of the Association, and until their successors are elected. A majority of the votes cast at such Annual Meeting shall be necessary to the election of officers, including the election of the Executive Council, and shall in all cases be by ballot.

COMMITTEES.

(As amended in 1907.)

ARTICLE VI.—At the Annual Meetings the Association shall also elect an Executive Council, to be composed of four members, of which Council the President, Secretary and Treasurer shall be members *ex-officio*. Said members of the Executive Council shall hold their office for one year from the date of their election, and until their successors are elected.

The President shall, with the approval of the Executive Council, appoint the following Standing Committees, to wit:

A Committee on Admissions;
A Committee on Laws;
A Committee on Legal Education;

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A Committee on Grievances;
A Committee on Legal Biography.

If any member of a Standing Committee shall fail to attend any Annual Meeting his absence shall create a vacancy and the President of the Association may, in his discretion, fill such vacancy by appointment.

Each Standing Committee shall be composed of one member from each Judicial Circuit represented in the Association, and two from Baltimore City, and a majority of the members of each of said Committees shall constitute a quorum of such Committee to transact business.

Each Committee shall, at each Annual Meeting, report in writing a summary of its proceedings since the last annual report, together with any suggestions deemed suitable and pertinent to its powers, duties or business.

A general summary of all such annual reports and the Proceedings of the Annual Meeting shall be prepared and printed by and under the direction of the Executive Council, together with the Constitution, By-Laws, names and residences of Officers, Standing Committees and Members of the Association, as soon as practicable after each Annual Meeting.

PRESIDENT.

ARTICLE VII.—The President, or in his absence the senior Vice-President in age, present, shall preside at all meetings of the Association, and the President shall deliver an address at the opening of the Annual Meeting next after his election.

EXECUTIVE COUNCIL.

ARTICLE VIII.—This Council shall manage the business and affairs of the Association, subject to the provisions of the Constitution and By-Laws, and shall be vested with the title to all its property, as trustees thereof, until the Association shall be incorporated, and if incorporated, shall have power to accept the act of incorporation for and on behalf of the corporation and all its members, and shall prepare and propose such By-Laws for the Association, in addition to those adopted by it at its first session, as said Committee shall deem expedient, which, when adopted at any Annual Meeting of this Association, shall become part of the By-Laws of the same.

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COMMITTEE ON ADMISSION.

ARTICLE IX.—It shall be the duty of this Committee to examine into the qualifications of every candidate proposed to the President for admission into this Association, and to report thereon with recommendations to the next Annual Meeting of this Association. The proceedings of this Committee shall be deemed confidential and shall be kept secret, except so far as the report or recommendations of the same shall be necessarily and officially made to the Association.

COMMITTEE ON LAWS.

(As amended in 1907.)

ARTICLE X.—It shall be the duty of this Committee to take notice of all proposed changes of the Law, and to consider and report to this Association such amendments of the Law as in its opinion should be adopted, and also to observe the practical working of the judicial system throughout the State, and recommend by written or printed report, from time to time, any changes which observation or experience may suggest should be made therein.

COMMITTEE ON LEGAL EDUCATION.

ARTICLE XI.—It shall be the duty of this Committee to examine and report upon any proposed changes in the system of legal education and make such suggestions as may seem pertinent thereto, and also to examine the practical workings of the present law in relation to the admission of members of the Bar to practice in this State, and to make such suggestions in relation to the same as the Committee shall deem advisable.

The Committee on Education may cause exceptions to be filed and prosecute at the expense of the Association to the admission to the Bar of all persons whom the said Committee believes are not qualified to be admitted. In all cases where the State Board of Law Examiners shall recommend that an applicant be not admitted to the Bar, and exceptions shall be filed by such applicant to the ratification of the report of said Board, the Committee may in every case, where they think such action proper, ask leave of the Court of Appeals to be heard in support of the decision of the Board.

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COMMITTEE ON GRIEVANCES.

ARTICLE XII.—This Committee shall receive and hear all complaints preferred by any member of this Association against any other member for misconduct in his relations to the Association, or in his profession, or affecting interests of the legal profession, the practice of the Law and the administration of justice; provided said complaints shall be in writing, plainly and specifically stating the matter complained of, and subscribed by the complainant.

All complaints so made shall be considered and disposed of by this Committee in the manner provided in the By-Laws.

The proceedings of this Committee shall be deemed confidential and kept secret, except so far as written or printed reports of the same shall be necessarily and officially made to the Association.

COMMITTEE ON LEGAL BIOGRAPHY.

(As amended in 1907.)

ARTICLE XIII.—The Committee on Legal Biography shall provide for the preservation, among the archives of the Association, of suitable written or printed memorials of the lives and characters of deceased members of this Association.

SECRETARY.

ARTICLE XIV.—The Secretary shall keep a record, and conduct the correspondence of the Association, and perform the usual duties of such office.

TREASURER.

ARTICLE XV.—The Treasurer shall collect, by order of the Executive Committee, disburse all funds of the Association, keep regular accounts, which at all times shall be open to the inspection of any member of the Executive Council, and shall make annual reports of all the same to this Association. The Treasurer shall give bond in such sum as the Executive Council shall decide, the cost of suretyship to be paid by the Association. All funds of the Association shall be deposited in its name in such bank or other financial institution as the Executive Council shall select.

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DUES.

(As amended in 1902.)

ARTICLE XVI.—The annual dues of members shall be five dollars, to be paid yearly in advance, and no person shall be qualified to exercise any privilege of membership who is in default.

EXPULSIONS.

ARTICLE XVII.—Any member may be suspended or expelled by a two-thirds vote of this Association, at any Annual Meeting, for misconduct in relation to the Association or in his profession, after conviction thereof by such method of procedure as may be prescribed by the By-Laws.

FINAL ACTION.

ARTICLE XVIII.—No action of this Association, of a permanent nature or recommending changes in the Law or the administration of justice, shall be had until the subject matter thereof shall have been reported upon by the appropriate Committee, to which the same shall have been referred, unless this regulation shall be suspended by a two-thirds vote of the members voting thereon.

ANNUAL MEETING.

(As amended in 1903.)

ARTICLE XIX.—This Association shall meet annually, at such time and place as the Executive Council may select, and at such other times and places in accordance with the By-Laws. It shall be the duty of the Secretary to mail to each member a written or printed notice of the time and place of each Annual or Special Meeting at least ten days in advance of such meeting. Those present at such meetings shall constitute a quorum.

AMENDMENTS.

ARTICLE XX.—This Constitution may be altered or amended at any Annual Meeting, on recommendation of the Executive Council, by a vote of the majority of the members present, or without such recommendation by a vote of two-thirds of the members present.

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BY-LAWS.

MEETINGS OF THE ASSOCIATION.

(As amended in 1907.)

I.—The Executive Council, at its first meeting after each Annual Meeting of the Association, shall select some person to make an address at the next Annual Meeting on some subject, to be selected by said person, pertinent to the objects of this Association; and also not exceeding five members of the Association who shall be requested to prepare and read papers at such meetings.

II.—The Order of Business of the Annual Meeting shall be as follows:

(*a*) Annual Address of the President.
(*b*) Report of Committee on Admissions and Election of Members.
(*c*) Report of the Secretary.
(*d*) Report of the Treasurer.
(*e*) Report of Standing Committees, as follows:
  Executive Council;
  On Laws;
  On Legal Education;
  On Grievances;
  On Legal Biography.
(*f*) Reports of Special Committees.
(*g*) The Appointment of Standing Committees.
(*h*) Miscellaneous Business.
(*i*) The Nomination and Election of Officers.

The address to be delivered by the person invited by the Executive Council shall be at the morning session of the second day of the Annual Meeting, and the reading of papers by the members appointed to read the same shall be on the same day, unless the Executive Council shall designate some other time for the address and reading of papers. After the reading of each paper an opportunity shall be given for discussion on the topic of the paper.

III.—No person taking part in a discussion shall speak more than ten minutes at a time or more than twice on one subject without the consent of the Association.

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PRIVILEGE OF THE FLOOR.

IV.—At any of the meetings of the Association members of the Bar of any foreign country or of any State other than Maryland may be admitted to the privileges of the floor during such meetings.

PAPERS, PRINTING OF SAME, ETC.

V.—All papers read before the Association shall be lodged with the Secretary. The Annual Address of the President, the Reports of Committees and all Proceedings at the Annual Meeting shall be printed; but no other address made or paper read shall be printed, except by order of the Executive Council. The Executive Council, as a Committee on Publication, shall meet within one month after each Annual Meeting, at such time and place as its Chairman shall appoint, to perform the above duties.

TERM OF OFFICE OF OFFICERS AND MEMBERS OF COMMITTEES.

VI.—The term of office of all officers, including the Executive Council, elected at any Annual Meeting, shall commence at the adjournment of such meeting; but the terms of office of the members of the several Committees appointed by the President shall commence immediately upon their appointment.

OFFICERS OF COMMITTEES, ETC.

VII.—Each Committee shall elect its own officers, and each Standing Committee shall continue until its successor shall be appointed.

MEETINGS OF STANDING COMMITTEES.

VIII.—All Standing Committees shall meet on the day preceding each Annual Meeting, at the place where the same is to be held, at such hour as the respective chairmen shall designate.

SPECIAL MEETINGS.

IX.—Special meetings of any Committee may be held at such times and places as the chairman thereof may appoint.

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TREASURER'S REPORT.

X.—The Treasurer's Report shall be examined and audited annually, before its presentation to the Association, by two members of the Executive Council, to be appointed by the Chairman thereof.

XI.—No resolution complimentary to any officer or member for any service performed, paper read or address delivered, shall be considered by the Association.

ORDER OF BUSINESS.

XII.—The order of Business may be changed at any meeting by a vote of a majority of the members present, and, except as otherwise provided by the Constitution or By-Laws, the usual parliamentary rules and orders will govern the proceedings.

CANDIDATES FOR MEMBERSHIP.

XIII.—Candidates for membership must be proposed in writing, by one or more members of the Association, addressed to the President.

All such proposals or nominations shall be referred by the President, at once, to the Committee on Admissions. Such proposals shall state the name and place of residence of the candidate, the time and place of his admission to the Bar, and such particulars as may best make known his character and professional status. No rejected candidate shall be again proposed for membership until after the expiration of two years. If any person elected as a member does not, within three months after notice thereof, pay his admission fee and sign the Constitution, or by letter to the Secretary authorize him to affix his name thereto, he shall be regarded as having declined to become a member.

ANNUAL DUES.

XIV.—If any member shall fail to pay his yearly dues for three months after the same become payable it shall be the duty of the Treasurer to notify him by mail of his default, and should such defaulting member continue in default for three months thereafter the same shall be reported to the Executive Council, which may, by order, without further notice, cause the name of such member to be stricken from the rolls.

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COMPLAINTS.

XV.—Whenever a complaint is presented to the Committee on Grievances, if the Committee shall be of the opinion that the matters alleged are of sufficient importance, it shall cause to be served upon the person complained of a copy of the complaint, together with not less than ten days' notice of the time and place of investigation, and a similar notice shall be served on the complainant The answer to such complaint shall be in writing. At the time and place so appointed or to which the hearing may be adjourned the Committee shall proceed to consider the case upon the complaint and answer (if any is interposed) and the evidence. Each party may appear personally and by counsel, who must be members of the Association. Witnesses shall vouch for the truth of their statements on their word of honor. If witnesses summoned by the Committee are members of the Association and refuse or neglect to obey the summons they shall be reported to the Association for its action. The evidence and the parties and their counsel being heard, the Committee shall make its decision, and if it finds the complaint to be true and of sufficient importance, it will so report to the Association with its recommendation, and in its discretion, upon request of either party, it may also report the evidence or any portion thereof.

The Association will take such action on the report as it shall see fit, but no member shall be expelled or suspended unless by a vote of at least two-thirds of the members present and voting.

SPECIAL MEETINGS.

XVI.—Special meetings of this Association, upon thirty days' notice thereof to the members, may be called by the Secretary, upon request of the Executive Council, whenever in its judgment the business to be attended to shall be of sufficient exigency or importance to justify such call.

WITHDRAWALS.

XVII.—Any member of the Association may withdraw from the same upon full payment of all dues to the Association, upon notice to that effect, in writing, transmitted to the Secretary and by him referred to the Executive Council and approved by said Council or the Chairman thereof, unless at the time of such application for withdrawal complaint against such member shall have already

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been made by some member of this Association, as hereinbefore provided, in which case no such application for withdrawal shall be considered by the Executive Council.

AMENDMENTS TO BY-LAWS.

XVIII.—These By-Laws may be amended at any meeting of the Association by a vote of two-thirds of those present, provided that twenty days' previous notice, in writing, of the proposed amendment shall have been given to the Executive Council.

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Alphabetical List of Members

OF THE

MARYLAND STATE BAR ASSOCIATION.

		Year of Election.
ABERCROMBIE, HARRY N.	624 Equitable Bldg., Balto.	1903
ADKINS, WILLIAM H.	Easton	1896
ALVEY, CHARLES	Hagerstown	1897
AMBLER, JAMES M.	207 N. Calvert St., Balto.	1897
APPLEGARTH, RUFUS W.	10 E. Lexington St., Balto.	1897
ARMSTRONG, CHARLES M.	19 W. Saratoga St., Balto.	1903
ASH, DAVID	102 E. Lexington St., Balto.	1905
BAETJER, EDWIN G.	1409 Continental Trust Bldg., Balto.	1898
BAGBY, CHARLES T.	16 St. Paul St., Balto.	1905
BAGBY, GEORGE P.	16 St. Paul St., Balto.	1905
BAKER, J. HENRY	225 Law Bldg., Balto.	1899
BAKER, O. PARKER	215 St. Paul St., Balto.	1901
BALDWIN, CHARLES G.	224 St. Paul St., Balto.	1905
BALDWIN, RIGNAL W.	224 St. Paul St., Balto.	1904
BANSEMER, WILLIAM S.	73 Gunther Bldg., Balto.	1903
BARNES, ADLAI P.	Snow Hill	1895
BARNES, P. C.	Cumberland	1901
BARNES, WILLIAM R.	52 Gunther Bldg., Balto.	1907
BARROLL, HOPE H.	Chestertown	1896
BARTLETT, J. KEMP	Cor. Calvert & German Sts., Balto.	1903
BARTON, RANDOLPH	207 N. Calvert St., Balto.	1903
BARTON, RANDOLPH, JR.	207 N. Calvert St., Balto.	1907
BAYARD, RICHARD H.	707 Gaither Bldg., Balto.	1904
BAYLESS, WILLIAM H.	510 Fidelity Bldg., Balto.	1897
BEACH, ROBERT W.	1001 Union Trust Bldg., Balto.	1906
BEALL, FILLMORE	Sunnyside	1906

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		Year of Election.
BECK, WILLIAM W.	Chestertown	1897
BEEUWKES, C. JOHN	628 Equitable Bldg., Balto.	1907
BENSON, CARVILLE D.	609 Law Bldg., Balto.	1903
BENSON, CLIFTON DOLL	223 St. Paul St., Balto.	1907
BENZINGER, HARRY M.	215 St. Paul St., Balto.	1903
BERNARD, ALFRED D.	3 E. Lexington St., Balto.	1897
BERNARD, RICHARD	3. E. Lexington St., Balto.	1897
BERNEI, LOUIS B.	261 Calvert Bldg., Balto.	1897
BIDDISON, JOHN S.	Towson	1897
BIGGS, ROBERT	828 Law Bldg., Balto.	1903
BINSWANGER, A. C.	563 Calvert Bldg., Balto.	1904
BLACKISTONE, D. J.	Cumberland	1896
BLAKE, GEORGE A.	Elkton	1900
BOARMAN, ROBERT R.	Towson	1897
BONAPARTE, CHARLES J.	216 St. Paul St., Balto.	1903
BOND, CARROLL T.	701 Maryland Trust Bldg., Balto.	1903
BOND, HUGH L., JR.	B. & O. Bldg., Balto.	1903
BOND, J. A. C.	Westminster	1896
BOND, NICHOLAS P.	1310 Continental Trust Bldg., Balto.	1896
BONN, WILLIAM EWIN	3 E. Lexington St., Balto.	1907
BORDLEY, MADISON B.	Centreville	1906
BOUCHET, CHARLES J.	215 St. Paul St., Balto.	1904
BOWEN, PHILANDER A., JR.	1410 G St., N. W., Washington	1898
BOWERS, JAMES W., JR.	16 E. Lexington St., Balto.	1901
BOWIE, WASHINGTON, JR.	Fidelity Bldg., Balto.	1900
BOYD, A. HUNTER	Cumberland	1896
BOYD, J. COOKMAN	16 Builders' Exchange Bldg., Balto.	1899
BRADY, A. THEODORE	Annapolis	1901
BRAMBLE, FORREST	33 Knickerbocker Bldg., Balto.	1903
BRANTLY, WILLIAM T.	10 E. Fayette St., Balto.	1897
BRASHEARS, JAMES R.	Annapolis	1904
BRENT, ROBERT E.	104 E. Lexington St., Balto.	1897
BREWER, JAMES R., JR.	303 Maryland Tel. Bldg., Balto.	1904
BRIDGES, F. WILBUR	Hagerstown	1907
BRISCOE, JOHN P.	Prince Frederick	1896
BRISTOR, JOSEPH W.	222 Law Bldg., Balto.	1903

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		Year of Election.
BROENING, HENRY J.	230 St. Paul St., Balto.	1897
BROENING, WILLIAM F.	230 St. Paul St., Balto.	1905
BROWN, ARTHUR GEORGE	841 Calvert Bldg., Balto.	1897
BROWN, EDWIN H., JR.	Centreville	1904
BROWN, STEWART	222 St. Paul St., Balto.	1896
BROWNLEY, EDWIN H.	800 Equitable Bldg., Balto.	1907
BRUNE, WILLIAM H.	1243 Calvert Bldg., Balto.	1897
BRYAN, WILLIAM S., JR.	308 Maryland Tel. Bldg., Balto.	1898
BRYANT, HOWARD	112 E. Lexington St., Balto.	1903
BUCKLER, WILLIAM H.	Evergreen Terrace, Balto.	1903
BUDNITZ, EMIL	20 E. Lexington St., Balto.	1897
BUNTING, J. BRISCOE	Prince Frederick	1896
BURGER, LOUIS J.	215 N. Charles St., Balto.	1903
BURKE, N. CHARLES	Towson	1897
BURTON, ROBERT	463 Calvert Bldg., Balto.	1899
BUSSEY, ROBERT H.	Towson	1898
CALWELL, JAMES S.	215 St. Paul St., Balto.	1903
CAMALIER, B. HARRIS	Leonardtown	1901
CAMPBELL, PETER J.	20 E. Lexington St., Balto.	1896
CAREY, FRANCIS K.	609 Calvert Bldg., Balto.	1896
CARR, JAMES E., JR.	727 Law Bldg., Balto.	1899
CARR, ROBERT H.	751 Equitable Bldg., Balto.	1907
CARRINGTON, EDWARD C.	110 E. Lexington St., Balto.	1897
CARTER, BERNARD	3 E. Lexington St, Balto.	1902
CARTER, JOHN M.	222 St. Paul St., Balto.	1903
CHANCELLOR, A. BERNARD	207 St. Paul St., Balto.	1897
CHAPMAN, JAMES W., JR.	1163 Calvert Bldg., Balto.	1900
CHESNUT, W. CALVIN	1137 Calvert Bldg., Balto.	1902
CHEW, PHILIP W.	Upper Marlboro	1896
CLABAUGH, HARRY M.	Westminster	1896
CLAGGETT, L. B. KEENE	Cor. Calvert & German Sts., Balto.	1904
CLAUDE, DENNIS	Annapolis	1904
CLAUDE, W. HALLAM	Annapolis	1898
CLAYTON, JOSHUA	Elkton	1903
CLIFT, J. BOOKER	1910 Mt. Royal Terrace, Balto.	1904
CLOTWORTHY, C. BAKER	1400 Continental Trust Bldg., Balto.	1903

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		Year of Election.
Coady, Charles P.	10 South St., Balto.	1905
Coe, Ward Baldwin	404 Fidelity Bldg., Balto.	1907
Collins, Oliver D.	Snow Hill	1897
Conrad, J. Fred., Jr.	528 Law Bldg., Balto.	1905
Cook, Elmer J.	Towson	1898
Cook, Fillmore	528 Law Bldg., Balto.	1907
Cook, Vernon	1137 Calvert Bldg., Balto.	1903
Copenhaver, Thomas N.	220 St. Paul St., Balto.	1904
Covington, James H.	Easton	1897
Covington, George W.	Snow Hill	1897
Crain, Robert	809 Calvert Bldg., Balto.	1898
Cronmiller, John D.	Laurel	1907
Cross, John Emory	809 Maryland Trust Bldg., Balto.	1907
Cross, Richard K.	10 E. Fayette St., Balto.	1897
Cross, W. Irvine	B. & O. Bldg., Balto.	1897
Crothers, Austin S.	Elkton	1898
Crouse, B. Frank	Westminster	1902
Curley, James P.	8 E. Lexington St., Balto.	1900
Dallam, Frederick	Marine Bank Bldg., Balto.	1903
Dallam, Richard	Bel Air	1902
Darnall, R. Bennett	408 Fidelity Bldg., Balto.	1903
Davis, George A.	Hagerstown	1905
Dawkins, Walter I.	408 Fidelity Bldg., Balto.	1896
Dawson, William H.	702 Fidelity Bldg., Balto.	1897
Deming, John B.	1407 Continental Trust Bldg, Balto.	1904
Denhard, Augustus M.	3 E. Lexington St., Balto.	1905
Dennis, James U.	406 Equitable Bldg., Balto.	1901
Dennis, J. Upshur	Athenæum Club, Balto.	1897
Dennis, Oregon Milton	130 Law Bldg., Balto.	1904
Denny, James W.	209 St. Paul St., Balto.	1897
Devecmon, W. C.	Cumberland	1896
Digges, W. Mitchell	La Plata	1905
Dillehunt, Harry B.	221 St. Paul St., Balto.	1899
Dobler, John J.	Harford Road, Balto.	1897
Donaldson, Albert E.	809 Calvert Bldg., Balto.	1903
Donaldson, John J.	220 St. Paul St., Balto.	1897

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		Year of Election.
DORTON, FREDERICK T.	10 South St., Balto.	1899
DOUB, A. A.	Cumberland	1896
DOUB, DANIEL W.	Hagerstown	1896
DUER, ROBERT F.	Princess Anne	1897
DUFFY, JOHN	1767 Willard St. N. W., Washington	1904
DUNCAN, FRANK I.	Towson	1898
DUNCAN, WILLIAM	707 Fidelity Bldg., Balto.	1906
DUVALL, RICHARD M.	16 E. Lexington St., Balto.	1903
EICHELBERGER, EDWD. S.	Frederick	1896
ELLEGOOD, JAMES E.	Salisbury	1896
ELLIOTT, THOMAS I.	10 South St., Balto.	1897
EMBERT, T. HOWARD	810 Equitable Bldg., Balto.	1907
EMMONS, HOWARD M.	953 Calvert Bldg., Balto.	1907
EMORY, GERMAN H. H.	709 Calvert Bldg., Balto.	1907
EVANS, WILLIAM S.	Elkton	1898
EWELL, L. PAUL	Pocomoke City	1907
FAHEY, MICHAEL H.	Havre de Grace	1904
FARBER, EDWIN J.	1243 Calvert Bldg., Balto.	1898
FECHTIG, JAMES A., JR.	455 Calvert Bldg., Balto.	1900
FIELD, CHARLES W.	1057 Calvert Bldg., Balto.	1907
FINCH, GEORGE A.	455 Calvert Bldg., Balto.	1906
FINK, CHARLES E.	Westminster	1896
FINK, J. AUSTIN	828 Law Bldg., Balto.	1903
FISHER, D. K. ESTE	1003 American Bldg., Balto.	1897
FITCH, NATHAN T.	Salisbury	1904
FOSTER, ARTHUR D.	922 Equitable Bldg., Balto.	1903
FOSTER, REUBEN CARLL	922 Equitable Bldg., Balto.	1903
FOWLER, DAVID	1407 Continental Trust Bldg., Balto.	1897
FRANCE, JOSEPH C.	1206 Continental Trust Bldg., Balto.	1897
FRANK, ELI	922 Equitable Bldg., Balto.	1903
FRANK, LOUIS N.	569 Calvert Bldg., Balto.	1905
FREENY, HENRY B.	Salisbury	1907
GAITHER, GEORGE R., JR.	815 Gaither Bldg., Balto.	1899
GAITHER, HARRY C.	125 Law Bldg., Balto.	1906
GANS, EDGAR H.	1137 Calvert Bldg., Balto.	1897
GANTT, FRANCIS E.	Prince Frederick	1904

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		Year of Election.
GARNETT, J. MERCER, JR.	1243 Calvert Bldg., Balto.	1907
GIBSON, EDWARD GUEST	909 Calvert Bldg, Balto.	1897
GILL, ROBERT L.	215 St. Paul St., Balto.	1903
GILL, ROGER T.	215 St. Paul St., Balto.	1900
GOLDSBOROUGH, PH. LEE	Cambridge	1897
GOLDSBOROUGH, T. ALAN	Denton	1906
GONTRUM, JOHN F.	Towson	1897
GORDON, ROBERT H.	Cumberland	1896
GORMAN, ARTHUR P., JR.	712 Equitable Bldg., Balto.	1902
GORTER, JAMES P.	224 St. Paul St., Balto.	1896
GOSNELL, FRANK	700 Maryland Trust Bldg., Balto.	1896
GOULD, ASHLEY M.	Rockville	1898
GRAHAM, ROBERT P.	500 Maryland Tel. Bldg., Balto.	1896
GRASON, WILLIAM	Towson	1898
GRAY, JOHN B.	Prince Frederick	1896
GREEN, NICHOLAS H.	Annapolis	1899
GREENBAUM, LEON	815 Gaither Bldg., Balto.	1903
GREGG, MAURICE	528 Equitable Bldg., Balto.	1896
GRESSITT, N. IRVIN	412 Fidelity Bldg., Balto.	1902
GRIFFIN, EDWIN J.	1704 Eastern Ave., Balto.	1897
GRILL, JOHN H.	201 Law Bldg., Balto.	1904
GRIMES, E. OLIVER	Westminster	1902
GRISWOLD, B. HOWELL	Balto. and Calvert Sts., Balto.	1903
HAGNER, ALEX. R.	Hagerstown	1905
HAINES, L. M.	Elkton	1896
HALL, R. E. LEE	18 E. Lexington St, Balto.	1905
HALM, REINHOLD J.	Hagerstown	1905
HAMAN, B. HOWARD	1137 Calvert Bldg., Balto.	1903
HAMILL, GILMOR S.	Oakland	1897
HAMMOND, EDWARD M.	Ellicott City	1907
HAMMOND, W. BROWNE	215 St. Paul St., Balto.	1905
HARDCASTLE, ALEX., JR.	701 Calvert Bldg., Balto.	1898
HARLAN, HENRY D.	9 E. Biddle St., Balto.	1897
HARLAN, WILLIAM H.	Bel Air	1901
HARMAN, SAMUEL J.	708 Fidelity Bldg., Balto.	1898
HARPER, J. FRANK	Centreville	1906

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		Year of Election.
HARTLE, ELIAS B.	Hagerstown	1905
HARRIS, W. HALL	216 St. Paul St., Balto	1903
HARVEY, ROLAND B	401 Calvert Bldg., Balto	1900
HAYES, THOMAS G	202 N. Calvert St., Balto	1897
HEIMILLER, H. T. W	22 E. Lexington St., Balto	1907
HENDERSON, ROBERT R	Cumberland	1896
HENDRICKSON, FINLEY C	Cumberland	1900
HENNIGHAUSEN, LOUIS P	215 St. Paul St., Balto	1897
HENNIGHAUSEN, PERCY C	215 St. Paul St., Balto	1897
HENNING, DAVID N	Westminster	1896
HENRY, T. HUGHLETT	Easton	1906
HERMAN, EMANUEL W	10 E. Lexington St., Balto	1898
HERSHEY, O. F	809 Calvert Bldg., Balto	1898
HERZOG, ARTHUR	112 E. Lexington St., Balto	1903
HERZOG, CHARLES	112 E. Lexington St., Balto	1897
HEUISLER, CHARLES W	1109 Calvert Bldg., Balto	1897
HILL, CHARLES E	712 Keyser Bldg., Balto	1898
HILL, F. SNOWDEN	Upper Marlboro	1906
HINKLEY, JOHN	215 N. Charles St., Balto	1896
HISKY, THOMAS FOLEY	215 N. Charles St., Balto	1897
HOCHHEIMER, LEWIS	215 Courtland St., Balto	1904
HOMER, FRANCIS T	213 Courtland St., Balto	1903
HORSEY, JOHN P	1137 Calvert Bldg., Balto	1907
HOPPER, PETER L	Havre de Grace	1904
HOULTON, SAMUEL C	9 Builders' Exchange Bldg., Balto	1897
HOWARD, CHARLES McH	1409 Continental Trust Bldg., Balto	1906
HOWARD, CHAS. MORRIS	700 Equitable Bldg., Balto	1897
HUBNER, HENRY H	509 Union Trust Bldg., Balto	1903
HUGHES, ADRIAN	223 St. Paul St., Balto	1897
HUGHES, THOMAS	223 St. Paul St., Balto	1903
HURST, JOHN J	1201 Calvert Bldg., Balto	1900
INGRAM, JAMES E., JR	500 Maryland Tel. Bldg., Balto	1902
ISAAC, Z. HOWARD	Towson	1903
JACKSON, ARTHUR L	943 Calvert Bldg., Balto	1907
JANNEY, STEUART S	745 Calvert Bldg., Balto	1906
JOHNSON, J. HEMSLEY	836 Equitable Bldg., Balto	1897

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		Year of Election.
JOHNSTON, WALTER A.	Kensington	1903
JONES, ROBLEY D.	Snow Hill	1897
JONES, SAMUEL M.	207 N. Calvert St., Balto.	1906
JUMP, JOHN W. D.	Easton	1906
KARR, HARRY E.	609 Law Bldg., Balto.	1903
KEALHOFER, WILLIAM	Hagerstown	1897
KEATING, THOMAS J., JR.	Centreville	1896
KEEDY, HENRY H., JR.	Hagerstown	1905
KEEDY, M. L.	Hagerstown	1896
KELLY, CHARLES M.	400 Law Bldg., Balto.	1903
KEMP, W. THOMAS	1407 Continental Trust Bldg., Balto.	1904
KENNARD, HENRY C.	909 Calvert Bldg., Balto.	1899
KENNEY, MARTIN G.	800 Equitable Bldg., Balto.	1905
KNAPP, CHARLES H.	708 Fidelity Bldg., Balto.	1899
KNOTT, A. LEO	323 N. Charles St., Balto.	1897
KOONTZ, EDWARD I.	1407 Continental Trust Bldg., Balto.	1904
LAMAR, WILLIAM H.	Rockville	1906
LANE, J. CLARENCE	Hagerstown	1896
LANKFORD, CLARENCE P.	Crisfield	1896
LANKFORD, H. FILLMORE	Princess Anne	1897
LAUCHHEIMER, SYLVAN H.	815 Gaither Bldg., Balto.	1899
LAWRENCE, WILLIAM H.	809 Law Bldg., Balto.	1907
LEE, BLAIR	Rockville	1907
LEE, RICHARD LAWS	232 St. Paul St., Balto.	1897
LEGG, J. H. C.	Centreville	1897
LEHMAYER, MARTIN	569 Calvert Bldg., Balto.	1897
LESER, OSCAR	American Bldg., Balto.	1901
LEVY, WILLIAM B.	408 Fidelity Bldg., Balto.	1898
LEWIN, WILLIAM M.	Hyattsville	1904
LEWIS, HENRY R.	Denton	1896
LEWIS, WM. PENN, JR.	9 Builders' Exchange Bldg., Balto.	1898
LINDSAY, JAMES J.	Towson	1896
LINTHICUM, J. CHARLES	220 St. Paul St., Balto.	1904
LITTIG, WARD P.	814 Law Bldg., Balto.	1905
LITTLE, C. A.	Hagerstown	1896
LITTLE, JOHN MAYS	Towson	1907

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		Year of Election.
LLOYD, HENRY	Cambridge	1897
LONG, ALBERT J.	Hagerstown	1905
LORD, J. WALTER	B. & O. Bldg., Balto	1903
LOWNDES, LLOYD, JR.	Cumberland	1900
LYELL, J. MILTON	1163 Calvert Bldg., Balto	1907
LYONS, WILLIAM P.	950 Equitable Bldg., Balto	1906
MCCOMAS, LOUIS E.	Hagerstown	1897
MCCORMICK, HOWARD	701 Calvert Bldg., Balto	1903
MCEVOY, JAMES, JR.	213 Courtland St., Balto	1903
MCHENRY, JAMES A.	Cumberland	1897
MCINTOSH, DAVID G.	Towson	1898
MCINTOSH, DAVID G., JR.	Towson	1904
MCCLEAVE, HUGH R.	Cumberland	1900
MCMICHAEL, ROBERT W.	Cumberland	1897
MCSHERRY, JAMES	Frederick	1896
MCSHERRY, J. ROGER	Frederick	1897
MACBETH, JAMES E.	Cumberland	1900
MACHEN, ARTHUR W., JR.	3 E. Lexington St., Balto	1903
MACKALL, THOMAS B.	222 St. Paul St., Balto	1897
MACKENZIE, THOMAS	607 Continental Trust Bldg., Balto	1902
MAGRUDER, DANIEL R.	Annapolis	1904
MANN, HARRY E.	100 E. Lexington St., Balto	1897
MARBURY, WILLIAM L.	700 Maryland Trust Bldg., Balto	1897
MARSHALL, R. E. LEE	841 Calvert Bldg., Balto	1904
MASON, J. AUGUSTINE	Hagerstown	1897
MATTINGLY, J. C.	Rosscroft	1902
MELOY, WILLIAM A.	Lanham	1903
MELVIN, RIDGELY P.	Annapolis	1907
MERRICK, GEORGE B.	Upper Marlboro	1907
MERRICK, GEORGE C.	Upper Marlboro	1899
MERRIKEN, CHARLES LEE	213 Courtland St., Balto	1903
MEYER, LEE S.	3 E. Lexington St., Balto	1901
MILES, ALONZO L.	709 Calvert Bldg., Balto	1897
MILES, JOSHUA W.	Princess Anne	1897
MILLER, CHARLES R.	Fidelity Bldg., Balto	1903
MILLER, C. WILBUR	1310 Continental Trust Bldg., Balto	1905

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		Year of Election.
MILLER, GUION	Easton	1901
MILLER, EDGAR G., JR.	509 Calvert Bldg., Balto	1903
MILLS, J. BIBB	835 Equitable Bldg., Balto	1903
MITCHELL, JOHN T	Oakland	1900
MITCHELL, WALTER J	La Plata	1905
MORRIS, JOHN T	709 Calvert Bldg., Balto	1899
MORRIS, THOMAS J	708 Park Ave., Balto	1897
MORRISON, GEORGE C	Equitable Bldg., Balto	1901
MORRISON, TAYLOR	Cumberland	1898
MOSES, JACOB M	618 Equitable Bldg, Balto	1903
MOTTER, JOHN C	Frederick	1897
MUDD, SYDNEY E	La Plata	1907
MULLIN, MICHAEL A	609 Fidelity Bldg., Balto	1897
MUNROE, JAMES M	Annapolis	1899
MURPHY, JOHN V. L	602 Law Bldg., Balto	1905
MURRAY, DANIEL M	Ellicott City	1905
MUSGRAVE, G. W. S	711 Fidelity Bldg., Balto	1907
NEILL, ALEXANDER	Hagerstown	1896
NEWMAN, JOHN S	Frederick	1903
NEWBOLD, DAVID M., JR	332 Equitable Bldg., Balto	1907
NILES, ALFRED S	928 Equitable Bldg., Balto	1897
NITZEL, HENRY M	204 N. Calvert St., Balto	1904
NORWOOD, FRANK C	Frederick	1897
O'BRIEN, WILLIAM J., JR	1009 Calvert Bldg., Balto	1897
O'DUNNE, EUGENE	110 Court House, Balto	1905
OFFUTT, T. SCOTT	Towson	1901
OUDESLUYS, EUGENE	46 Builders' Exchange Bldg., Balto	1903
OWENS, ALBERT S. J	110 Court House, Balto	1903
OWENS, FRED. R	Denton	1897
OWENS, JAMES W	Annapolis	1898
PACKARD, JOSEPH	207 N. Calvert St., Balto	1897
PAGE, HENRY	Princess Anne	1896
PARKE, FRANCIS NEAL	Westminster	1898
PARRAN, J. FRANK	Prince Frederick	1896
PARKER, W. W	3 E. Lexington St., Balto	1907
PATTISON, JOHN R	Cambridge	1897

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		Year of Election.
PEARCE, JAMES A.	Chestertown	1896
PEARRE, GEORGE A.	Cumberland	1898
PEGRAM, FRANCIS E.	837 Equitable Bldg., Balto.	1903
PENROSE, WILLIAM	209 St. Paul St., Balto.	1902
PERKINS, CLARENCE W.	10 South St., Balto.	1905
PERKINS, WILLIAM H., JR.	700 Equitable Bldg., Balto.	1900
PETER, ARTHUR	Rockville	1906
PETER, EDWARD C.	Rockville	1902
PHELPS, CHARLES E.	Walbrook	1897
PHELPS, JOHN	1109 Calvert Bldg., Balto.	1903
PIPER, A. A.	Towson	1907
PIRSCHER, WILLIAM F.	225 St. Paul St., Balto.	1907
POE, JOHN P.	100 E. Lexington St., Balto.	1896
POE, S. JOHNSON	100 E. Lexington St., Balto.	1903
POFFENBERGER, THOS. A.	Hagerstown	1905
PORTER, GILBERT B.	626 Equitable Bldg., Balto.	1907
PRESTON, JAMES H.	220 St. Paul St., Balto.	1903
PRETTYMAN, CHARLES W.	Rockville	1900
PURNELL, CLAYTON	Frostburg	1896
PUTZEL, LEWIS	406 Law Bldg., Balto.	1901
QUIGLEY, CHARLES H.	801 Gaither Bldg., Balto.	1899
RALSTON, JACKSON H.	Hyattsville	1896
RANDALL, DANIEL R.	Annapolis	1904
RANDALL, JOHN WIRT	Annapolis	1904
REIFSNIDER, CHARLES T.	10 E. Lexington St., Balto.	1899
REIFSNIDER, J. MILTON	Westminster	1898
RENNINGER, JULIUS C.	Oakland	1901
REQUARDT, JOHN M.	54 Gunther Bldg., Balto.	1906
REVELL, JAMES	Annapolis	1900
REYNOLDS, DEWARREN H.	Cumberland	1896
RHODES, FRANK V.	701 Fidelity Bldg., Balto.	1897
RICH, EDWARD N.	808 Union Trust Bldg., Balto.	1903
RICHMOND, BENJ. A.	Cumberland	1896
RIGGS, LAURIE H.	510 Fidelity Bldg., Balto.	1907
RILEY, ELIHU S.	Annapolis	1896
RILEY, HUGH R.	Annapolis	1904

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		Year of Election.
RITCHIE, ALBERT C.	745 Calvert Bldg., Balto.	1903
ROBB, DAVID A.	Cumberland	1900
ROBERTS, CLARENCE M.	Upper Marlboro	1907
ROBERTS, JOHN M.	Westminster	1902
ROBERTSON, ALEXANDER H.	Gunther Bldg., Balto.	1896
ROBINSON, RALPH	1310 Continental Trust Bldg., Balto.	1896
ROBINSON, THOMAS H.	Bel Air	1896
ROGERS, JAMES C.	Hyattsville	1900
ROGERS, JOHN G.	Ellicott City	1898
ROGERS, ROBERT L.	46 Post Office Bldg., Balto.	1897
ROSE, JOHN C.	626 Equitable Bldg., Balto.	1897
ROSENBUSH, MYER	261 Calvert Bldg., Balto.	1903
ROUSE, WILLARD G.	Bel Air	1896
RUSK, HARRY WELLES	618 Law Bldg., Balto.	1903
SADTLER, HOWARD P.	1163 Calvert Bldg., Balto.	1897
SAMS, CONWAY W.	836 Equitable Bldg., Balto.	1896
SAPPINGTON, A. DER.	308 Maryland Tel. Bldg., Balto.	1897
SAPPINGTON, EDWARD H.	308 Maryland Tel. Bldg., Balto.	1903
SASSCER, FREDERICK	Upper Marlboro	1900
SAUERWEIN, E. ALLEN, JR.	1109 Calvert Bldg., Balto.	1903
SAVAGE, GEORGE	520 N. Charles St., Balto.	1897
SCHERMERHORN, A. VAN R.	s.w. cor. Calvert & German Sts., Balto.	1905
SCHILPP, JOHN G.	841 Calvert Bldg., Balto.	1905
SCHLEY, BUCHANAN	Hagerstown	1896
SCHMITZ, BERNARD A.	110 E. Lexington St., Balto.	1901
SCHMUCKER, SAMUEL D.	1712 Park Ave., Balto.	1897
SCOTT, NORMAN B., JR.	Hagerstown	1896
SEMMES, JOHN E.	828 Equitable Bldg., Balto.	1904
SETH, ALEXANDER L.	100 E. Lexington St., Balto.	1907
SETH, JOSEPH B.	Easton	1899
SEYBOLD, VINCENT	Frederick	1897
SHANKLIN, ARTHUR P.	Towson	1899
SHARP, ABRAHAM	943 Calvert Bldg., Balto.	1904
SHARP, GEORGE M.	2105 St. Paul St., Balto.	1896
SHEHAN, WM. MASON	Easton	1906
SHRIVER, ALFRED JENKINS	700 Equitable Bldg., Balto.	1906

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		Year of Election.
SIMMONS, THOMAS W.	Cambridge	1897
SINCELL, EDWARD H.	Oakland	1898
SINGLEY, FREDERICK J.	215 N. Charles St., Balto.	1903
SKINNER, MAURICE E.	805 Calvert Bldg., Balto.	1897
SLAY, WILLIAM M.	Chestertown	1897
SLINGLUFF, FIELDER C.	1008 Union Trust Bldg., Balto.	1899
SLINGLUFF, R. LEE	1008 Union Trust Bldg., Balto.	1903
SLINGLUFF, T. ROLAND	1008 Union Trust Bldg., Balto.	1903
SLOAN, D. LINDLEY	Cumberland	1900
SMITH, GEORGE W., JR.	Hagerstown	1896
SMITH, JERRY L.	Annapolis	1901
SMITH, ROBERT H.	624 Equitable Bldg., Balto.	1897
SMITH, WILLIAM B.	606 Union Trust Bldg., Balto.	1907
SMITH, WILLIAM C.	10 South St., Balto.	1901
SOLTER, GEORGE A.	943 Calvert Bldg., Balto.	1904
SOPER, MORRIS A.	626 Equitable Bldg., Balto.	1903
SPAMER, C. AUGUSTUS	215 N. Charles St., Balto.	1897
SPENCER, LINDSAY C.	601 Gaither Bldg., Balto.	1907
SQUIER, J. WILSON	Elkton	1907
STANFORD, H. L. D.	Princess Anne	1896
STANLEY, CHARLES H.	8 E. Lexington St., Balto.	1897
STANTON, ROBERT F.	209 St. Paul St., Balto.	1903
STATON, JOHN W.	Snow Hill	1905
STEELE, GUY W.	Westminster	1898
STEIN, CHARLES F.	215 St. Paul St., Balto.	1903
STEINER, HUGO	406 Law Bldg., Balto.	1897
STEWART, DAVID	213 St. Paul St., Balto.	1897
STEWART, HYLAND P.	510 Fidelity Bldg., Balto.	1901
STEWART, REDMOND C.	207 N. Calvert St., Balto.	1902
STIMPSON, HERBERT B.	207 N. Calvert St., Balto.	1903
STOCKBRIDGE, HENRY	11 N. Calhoun St., Balto.	1897
STOCKETT, FRANK H.	Annapolis	1904
STORY, FREDERICK W.	9 Builders' Exchange Bldg., Balto.	1897
STRAUS, ISAAC LOBE	463 Calvert Bldg., Balto.	1900
STRINGER, EDWIN R.	215 St. Paul St., Balto.	1907
STRITE, ABRAHAM C.	Hagerstown	1896

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		Year of Election.
STUMP, H. ARTHUR	224 St. Paul St., Balto	1904
SURRATT, WILLIAM H.	3 E. Lexington St., Balto	1901
TALBOTT, HATTERSLY W.	Rockville	1899
TALBOTT, WILLIAM H.	Rockville	1896
TAYLOR, ARCHIBALD H.	901 Maryland Trust Bldg., Balto	1898
THARP, ALFRED L.	Easton	1897
THOMAS, GEORGE C.	429 Law Bldg., Balto	1899
THOMAS, GEORGE L.	1102 McCulloh St., Balto	1897
THOMAS, JAMES W.	Cumberland	1897
THOMAS, J. HANSON	841 Calvert Bldg, Balto	1904
THOMAS, WILLIAM H.	Westminster	1899
THOMAS, WILLIAM S.	507 Fidelity Bldg., Balto	1898
THRIFT, JAMES F.	213 St. Paul St., Balto	1907
TIERNAN, CHARLES B.	20 E. Lexington St., Balto	1897
TILGHMAN, OSWALD	Easton	1903
TIPPETT, RICHARD B.	11 E. Lexington St., Balto	1897
TOADVINE, E. STANLEY	Salisbury	1900
TOME, PETER E.	401 American Bldg., Balto	1898
TOWERS, ALBERT G.	Denton	1897
TOWERS, WILLIAM G.	35 Knickerbocker Bldg., Balto	1904
TRIPPE, ANDREW C.	347 N. Charles St., Balto	1904
TRIPPE, JAMES McC.	347 N. Charles St., Balto	1903
TRUNDLE, W. BURNS	301 St. Paul St., Balto	1897
TUCK, PHILEMON E.	207 N. Calvert St., Balto	1903
TUCKER, CLARENCE A.	708 Fidelity Bldg., Balto	1903
TUCKER, W. FRANK	223 St. Paul St., Balto	1905
TULL, GORDON	Princess Anne	1897
TURNER, FRANK G.	3 E. Lexington St., Balto	1899
TURNER, J. FRANK	Easton	1901
TYLER, J. EDWARD, JR.	404 Fidelity Bldg., Balto	1907
TYSON, A. MORRIS	207 N. Calvert St., Balto	1897
ULMAN, JOSEPH N.	708 Fidelity Bldg., Balto	1907
ULRICH, HENRY A.	24 Builders' Exchange Bldg., Balto	1907
UPSHUR, GEORGE M.	Law Bldg., Balto	1898
URIE, JOHN D.	Chestertown	1897
URNER, HAMMOND	Frederick	1897

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		Year of Election.
URNER, MILTON G.	Frederick	1897
VAN BIBBER, GEORGE L.	Bel Air	1898
VEITCH, PERCY H.	Hyattsville	1901
VENABLE, RICHARD M.	1409 Continental Trust Bldg., Balto.	1897
VICKERS, H. W.	Chestertown	1897
VICKERS, H. W., JR.	Chestertown	1907
WAGAMAN, CHARLES D.	Hagerstown	1896
WALRAVEN, JOHN H.	818 Law Bldg., Balto.	1907
WALSH, MICHAEL E.	Westminster	1898
WALSH, WILLIAM E.	Cumberland	1896
WALTER, MOSES R.	609 Union Trust Bldg., Balto.	1897
WALTON, ELMER H.	Salisbury	1904
WARBURTON, WM. T.	Elkton	1898
WARFIELD, EDWIN	Fidelity Bldg., Balto.	1897
WARFIELD, JOHN	321 St. Paul St., Balto.	1898
WARNER, C. HOPEWELL	10 E. Fayette St., Balto.	1897
WATERS, HENRY J.	Princess Anne	1896
WATERS, J. SEYMOUR T.	528 Equitable Bldg., Balto.	1899
WATTS, P. BARTLEY	222 St. Paul St., Balto.	1897
WEANT, EDWARD O.	Westminster	1898
WEEKS, THOMAS C.	826 Law Bldg., Balto.	1907
WEBSTER, J. EDWIN	Bel Air	1896
WEHR, ALBERT H.	528 Law Bldg., Balto.	1905
WHEATLEY, WILLIAM A.	10 E. Fayette St., Balto.	1906
WHELAN, THOMAS A.	509 Fidelity Bldg, Balto.	1897
WHELTLE, JOHN B. A.	Maryland Telephone Bldg., Balto.	1903
WHITAKER, HARRY H.	Bel Air	1904
WHITELOCK, GEORGE	1407 Continental Trust Bldg., Balto.	1896
WHITING, F. BROOKE	Cumberland	1901
WICKES, LEWIN W.	Chestertown	1897
WICKES, PERE L.	920 St. Paul St., Balto.	1903
WILLARD, ARTHUR D.	Frederick	1903
WILLIAMS, JAY	Salisbury	1897
WILLIAMS, FERDINAND	Cumberland	1897
WILLIAMS, GEORGE W.	700 Maryland Trust Bldg., Balto.	1900
WILLIAMS, HENRY W.	507 Fidelity Bldg., Balto.	1903

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		Year of Election.
WILLIAMS, JOHN F.	801 Gaither Bldg., Balto	1897
WILLIAMS, N. WINSLOW	507 Fidelity Bldg, Balto	1903
WILLIAMS, STEVENSON A.	Bel Air	1897
WILLISON, JASPER N	Cumberland	1900
WILLIS, GEORGE R.	213 Courtland St., Balto	1897
WELLS, ROBERT W.	Hyattsville	1903
WILMER, L. ALLISON	La Plata	1896
WILSON, AUSTIN A.	Cumberland	1897
WILSON, GEORGE W.	Easton	1906
WILSON, JOHN G.	B. & O. Bldg., Balto	1897
WINGERT, HENRY F.	Hagerstown	1897
WINGERT, WILLIAM	Hagerstown	1905
WITZENBACKER, WM. J.	Hagerstown	1896
WOLFF, OSCAR	928 Equitable Bldg., Balto	1898
WORTHINGTON, GLENN H.	Frederick	1897
WORTHINGTON, JOHN D.	Bel Air	1904
WRIGHT, DANIEL GIRAUD	142 W. Lanvale St., Balto	1897
WYMAN, JULIUS H.	602 Law Bldg., Balto	1907
YELLOTT, OSBORNE I.	Towson	1898
YOUNG, ARCHIBALD A.	Cumberland	1905
YOUNG, JOHN S.	Bel Air	1896

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